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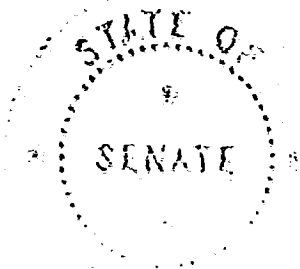
CHAPTER 143

# HOUSE BILL 2728

AN ACT

AMENDING SECTIONS 45-611 AND 45-841.01, ARIZONA REVISED STATUTES; AMENDING SECTION 45-841.01, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTIONS 45-2423, 45-2425 AND 45-2457, ARIZONA REVISED STATUTES; AMENDING TITLE 45, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 15; AMENDING TITLE 45, CHAPTER 15, ARTICLE 1, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT, BY ADDING SECTIONS 45-2602 AND 45-2604; AMENDING TITLE 45, CHAPTER 15, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT, BY ADDING ARTICLES 2, 3 AND 6; AMENDING TITLE 45, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 16; PROVIDING FOR THE DELAYED CONDITIONAL REPEAL OF TITLE 45, CHAPTER 15, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; RELATING TO WATERS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 45-611, Arizona Revised Statutes, is amended to  
3 read:

4 45-611. Groundwater withdrawal fee; amounts and purposes of  
5 fee; exception

6 A. Except as provided in subsection B of this section, the director  
7 shall levy and collect an annual groundwater withdrawal fee from each person  
8 withdrawing groundwater in the Prescott active management area or the person  
9 who owns the right to withdraw the groundwater, in an amount not to exceed  
10 five dollars per acre-foot of groundwater withdrawn and beneficially used.  
11 The director shall levy and collect an annual withdrawal fee from each person  
12 withdrawing water, other than stored water, from a well in the Santa Cruz  
13 active management area or the person who owns the right to withdraw the  
14 water, in an amount not to exceed five dollars per acre-foot of water, other  
15 than stored water, that is withdrawn and beneficially used. For purposes of  
16 this article, the annual withdrawal fee levied and collected in the Santa  
17 Cruz active management area shall be considered a groundwater withdrawal fee.  
18 The actual amount of the fee levied and collected by the director pursuant to  
19 this subsection shall be set by the director as follows:

20 1. For administration and enforcement of this chapter, an amount not  
21 less than fifty cents and not greater than one dollar per acre-foot per year.  
22 The initial fee for administration and enforcement shall be levied as soon as  
23 practicable after the active management area is established.

24 2. For augmentation of the water supply of the active management area,  
25 conservation assistance to water users within the active management area and  
26 monitoring and assessing water availability within the active management  
27 area, an amount not greater than two dollars per acre-foot per year.

28 3. For purchasing and retiring grandfathered rights, an amount not  
29 greater than two dollars per acre-foot per year. The initial fee for  
30 purchasing and retiring grandfathered rights shall be levied in the first  
31 year in which the director develops and implements a program for the purchase  
32 and retirement of grandfathered rights as part of the management plan for the  
33 active management area, but not earlier than January 1, 2006. The director  
34 may not levy a fee under this paragraph on a district member of a groundwater  
35 replenishment district that withdraws groundwater in the district for a  
36 non-irrigation use in the district.

37 B. A person, other than an irrigation district, who withdraws  
38 groundwater in an active management area from a non-exempt well for use  
39 pursuant to an irrigation grandfathered right that is appurtenant to ten or  
40 fewer irrigation acres and the person who owns the right to withdraw the  
41 groundwater are exempt from the groundwater withdrawal fee requirements of  
42 subsections A and C of this section for those withdrawals unless the  
43 irrigation acres are part of an integrated farming operation.

1 C. Except as provided in section 45-411.01, subsection C and  
2 subsection B of this section, the director shall levy and collect an annual  
3 groundwater withdrawal fee from each person who withdraws groundwater in the  
4 Tucson, Phoenix and Pinal active management areas or the person who owns the  
5 right to withdraw the groundwater, in an amount of not more than five dollars  
6 per acre-foot of groundwater withdrawn and beneficially used. The director  
7 shall set the actual amount of the fee as follows:

8 1. IN THE TUCSON AND PHOENIX ACTIVE MANAGEMENT AREAS, beginning in  
9 2017, for administration and enforcement of this chapter, an amount of at  
10 least fifty cents but not more than one dollar per acre-foot per year. IN  
11 THE PINAL ACTIVE MANAGEMENT AREA, BEGINNING IN 2017, FOR ADMINISTRATION AND  
12 ENFORCEMENT OF THIS CHAPTER, AN AMOUNT OF NOT MORE THAN ONE DOLLAR PER  
13 ACRE-FOOT PER YEAR.

14 2. Through 2016, for augmentation of the water supply of the active  
15 management area, conservation assistance to water users within the active  
16 management area and monitoring and assessing water availability within the  
17 active management area, an amount of not more than fifty cents per acre-foot  
18 per year, and after 2016, an amount of not more than two dollars per  
19 acre-foot per year. If a permanent board of directors of an active  
20 management area water district assumes office under section 48-4831, the fee  
21 for augmentation under this paragraph shall not be levied in that active  
22 management area.

23 3. IN THE TUCSON AND PHOENIX ACTIVE MANAGEMENT AREAS, through 2016,  
24 for Arizona water banking purposes, the amount of two dollars fifty cents per  
25 acre-foot per year, ~~except that for groundwater withdrawn pursuant to~~  
26 ~~irrigation grandfathered rights within the Pinal active management area to~~  
27 ~~the extent those rights are used to irrigate lands outside of the service~~  
28 ~~area of an irrigation district, the amount of seventy five cents per~~  
29 ~~acre-foot of groundwater withdrawn in 1997, and a cumulating additional~~  
30 ~~twenty five cents per acre foot each year thereafter, to a maximum of two~~  
31 ~~dollars fifty cents per acre-foot per year.~~ IN THE PINAL ACTIVE MANAGEMENT  
32 AREA, THROUGH 2016, FOR ARIZONA WATER BANKING PURPOSES, INCLUDING  
33 REPLENISHMENT UNDER CHAPTER 15, ARTICLE 3 OF THIS TITLE, THE AMOUNT OF TWO  
34 DOLLARS FIFTY CENTS PER ACRE-FOOT PER YEAR AND, BEGINNING IN 2017, FOR  
35 ARIZONA WATER BANKING PURPOSES, INCLUDING REPLENISHMENT UNDER CHAPTER 15,  
36 ARTICLE 3 OF THIS TITLE, AN AMOUNT OF NOT MORE THAN TWO DOLLARS FIFTY CENTS  
37 PER ACRE-FOOT PER YEAR.

38 4. For purchasing and retiring grandfathered rights, an amount of not  
39 more than two dollars per acre-foot per year. The initial fee for purchasing  
40 and retiring grandfathered rights shall be levied in the first year in which  
41 the director develops and implements a program for the purchase and  
42 retirement of grandfathered rights as part of the management plan for the  
43 active management area, but not earlier than January 1, 2006. The director  
44 may not levy a fee pursuant to this paragraph on a district member of a

1 groundwater replenishment district that withdraws groundwater in the district  
2 for non-irrigation use in the district.

3 Sec. 2. Section 45-841.01, Arizona Revised Statutes, is amended to  
4 read:

5 45-841.01. Accrual of long-term storage credits; Indian water  
6 rights settlements

7 A. To further the implementation of Indian water rights settlements in  
8 this state, an Indian community may accrue long-term storage credits as  
9 prescribed by this section.

10 B. This section applies only to the settlement of a water rights claim  
11 by a federally recognized Indian community in this state if the settlement  
12 provides for off-reservation storage of its central Arizona project water and  
13 only after the settlement results in a dismissal with prejudice of a class  
14 action claim that has been pending in the United States district court for  
15 more than five years.

16 C. Before accruing any long-term storage credits under this section,  
17 both of the following conditions apply:

18 1. A party seeking to participate in the accrual of long-term storage  
19 credits under this section shall file written notice with the director that  
20 the requirements of subsection B of this section have been met.

21 2. The director shall find that the requirements of subsection B of  
22 this section have been met.

23 D. Before accruing any long-term storage credits under this section, a  
24 party seeking to participate in the accrual of long-term storage credits  
25 under this section shall file with the director all of the following  
26 information:

27 1. A written notice of the ~~parties'~~ PARTY'S intent to begin the  
28 delivery of central Arizona project water that ~~was made~~ IS available to the  
29 Indian community ~~by the water rights settlement~~ to the holder of  
30 grandfathered groundwater rights in an active management area.

31 2. A sworn statement by the holder of the grandfathered groundwater  
32 rights that the holder will use the water delivered off of Indian community  
33 lands on a gallon-for-gallon substitute basis instead of groundwater that  
34 otherwise would have been pumped pursuant to the grandfathered groundwater  
35 rights from within an active management area.

36 3. A listing and description of the grandfathered groundwater rights  
37 that will not be exercised by the holder because of the delivery of the water  
38 that is delivered by the Indian community.

39 4. A hydrologic report assessing the effect of nonexercise of  
40 grandfathered groundwater rights under this section on any underground  
41 storage facility that was constructed as a state demonstration project and  
42 that is located within ten miles of the point of withdrawal for the  
43 grandfathered groundwater rights.

1 E. The director shall review the hydrologic report filed pursuant to  
2 subsection D, paragraph 4 of this section and shall make such modifications  
3 to the state demonstration project's underground storage facility permit as  
4 the director deems appropriate.

5 F. If the director determines that the parties have complied with  
6 subsection D of this section, the Indian community may begin accruing  
7 long-term storage credits for the delivery of central Arizona project WATER  
8 to the holder of the grandfathered groundwater rights, but only if the  
9 following apply:

10 1. By March 31 of each year, the holder of the grandfathered  
11 groundwater rights files an annual report with the director for the preceding  
12 calendar year. The annual report shall include the following information:

13 (a) The total quantity of water received from the Indian community  
14 during the year for use by the holder under this section.

15 (b) A listing of those grandfathered groundwater rights that were not  
16 exercised during the year by the holder because of the receipt of central  
17 Arizona project water delivered by the Indian community.

18 (c) Such other information as the director may reasonably require.

19 2. The director finds that the water reported as received by the  
20 grandfathered groundwater right holder was used on a gallon-for-gallon  
21 substitute basis for groundwater.

22 3. The Indian community has offered to sell the Arizona water banking  
23 authority ten per cent of any long-term storage credits accruable by the  
24 Indian community under this section at a price per acre-foot at the time of  
25 sale equal to the authority's cost of delivering and storing water at an  
26 underground storage facility that was constructed as a state demonstration  
27 project and that is located within ten miles of the point of withdrawal of  
28 any of the grandfathered groundwater rights identified in the list filed with  
29 the director pursuant to subsection D, paragraph 3 of this section, except  
30 that any credits purchased pursuant to such offer may not be recovered within  
31 five miles of the exterior reservation boundary of the Indian community.

32 G. The water that is received under this section by the holder of the  
33 grandfathered groundwater right is deemed to be groundwater for all purposes  
34 of chapter 2 of this title as if the holder had withdrawn it from a  
35 well. The holder is responsible for all records, reports and fees required  
36 by chapter 2 of this title relating to the water received.

37 H. The director shall establish a long-term storage account for the  
38 Indian community in accordance with section 45-852.01 and each year shall  
39 credit to that long-term storage account ninety-five per cent of the water  
40 received by the holder of the grandfathered groundwater right during the  
41 preceding year that meets the requirements of subsection F of this section.

42 I. Long-term storage credits accrued pursuant to this section may be  
43 used or assigned in any manner that is consistent with this chapter.

1 J. The maximum amount of long-term storage credits that may be accrued  
2 by an Indian community under this section in any year is ten thousand  
3 acre-feet.

4 Sec. 3. Section 45-841.01, Arizona Revised Statutes, as amended by  
5 this act, is amended to read:

6 45-841.01. Accrual of long-term storage credits; Indian water  
7 rights settlements

8 A. To further the implementation of Indian water rights settlements in  
9 this state, an Indian community may accrue long-term storage credits as  
10 prescribed by this section.

11 B. This section applies only to the settlement of a water rights claim  
12 by a federally recognized Indian community in this state if the settlement  
13 provides for off-reservation storage of its central Arizona project water and  
14 only after the settlement results in a dismissal with prejudice of a class  
15 action claim that has been pending in the United States district court for  
16 more than five years.

17 C. Before accruing any long-term storage credits under this section,  
18 both of the following conditions apply:

19 1. A party seeking to participate in the accrual of long-term storage  
20 credits under this section shall file written notice with the director that  
21 the requirements of subsection B of this section have been met.

22 2. The director shall find that the requirements of subsection B of  
23 this section have been met.

24 D. Before accruing any long-term storage credits under this section, a  
25 party seeking to participate in the accrual of long-term storage credits  
26 under this section shall file with the director all of the following  
27 information:

28 1. A written notice of the ~~party's~~ PARTIES' intent to begin the  
29 delivery of central Arizona project water that ~~is~~ WAS MADE available to the  
30 Indian community BY THE WATER RIGHTS SETTLEMENT to the holder of  
31 grandfathered groundwater rights in an active management area.

32 2. A sworn statement by the holder of the grandfathered groundwater  
33 rights that the holder will use the water delivered off of Indian community  
34 lands on a gallon-for-gallon substitute basis instead of groundwater that  
35 otherwise would have been pumped pursuant to the grandfathered groundwater  
36 rights from within an active management area.

37 3. A listing and description of the grandfathered groundwater rights  
38 that will not be exercised by the holder because of the delivery of the water  
39 that is delivered by the Indian community.

40 4. A hydrologic report assessing the effect of nonexercise of  
41 grandfathered groundwater rights under this section on any underground  
42 storage facility that was constructed as a state demonstration project and  
43 that is located within ten miles of the point of withdrawal for the  
44 grandfathered groundwater rights.

1       E. The director shall review the hydrologic report filed pursuant to  
2 subsection D, paragraph 4 of this section and shall make such modifications  
3 to the state demonstration project's underground storage facility permit as  
4 the director deems appropriate.

5       F. If the director determines that the parties have complied with  
6 subsection D of this section, the Indian community may begin accruing  
7 long-term storage credits for the delivery of central Arizona project water  
8 to the holder of the grandfathered groundwater rights, but only if the  
9 following apply:

10       1. By March 31 of each year, the holder of the grandfathered  
11 groundwater rights files an annual report with the director for the preceding  
12 calendar year. The annual report shall include the following information:

13       (a) The total quantity of water received from the Indian community  
14 during the year for use by the holder under this section.

15       (b) A listing of those grandfathered groundwater rights that were not  
16 exercised during the year by the holder because of the receipt of central  
17 Arizona project water delivered by the Indian community.

18       (c) Such other information as the director may reasonably require.

19       2. The director finds that the water reported as received by the  
20 grandfathered groundwater right holder was used on a gallon-for-gallon  
21 substitute basis for groundwater.

22       3. The Indian community has offered to sell the Arizona water banking  
23 authority ten per cent of any long-term storage credits accruable by the  
24 Indian community under this section at a price per acre-foot at the time of  
25 sale equal to the authority's cost of delivering and storing water at an  
26 underground storage facility that was constructed as a state demonstration  
27 project and that is located within ten miles of the point of withdrawal of  
28 any of the grandfathered groundwater rights identified in the list filed with  
29 the director pursuant to subsection D, paragraph 3 of this section, except  
30 that any credits purchased pursuant to such offer may not be recovered within  
31 five miles of the exterior reservation boundary of the Indian community.

32       G. The water that is received under this section by the holder of the  
33 grandfathered groundwater right is deemed to be groundwater for all purposes  
34 of chapter 2 of this title as if the holder had withdrawn it from a  
35 well. The holder is responsible for all records, reports and fees required  
36 by chapter 2 of this title relating to the water received.

37       H. The director shall establish a long-term storage account for the  
38 Indian community in accordance with section 45-852.01 and each year shall  
39 credit to that long-term storage account ninety-five per cent of the water  
40 received by the holder of the grandfathered groundwater right during the  
41 preceding year that meets the requirements of subsection F of this section.

42       I. Long-term storage credits accrued pursuant to this section may be  
43 used or assigned in any manner that is consistent with this chapter.

J. The maximum amount of long-term storage credits that may be accrued by an Indian community under this section in any year is ten thousand acre-feet.

Sec. 4. Section 45-2423, Arizona Revised Statutes, is amended to read: 45-2423. Powers and duties of authority

A. The authority, acting through its commission, shall:

1. Administer the Arizona water banking fund in accordance with this chapter.

2. Coordinate its staffing needs with the director and CAWCD.

3. Coordinate the storage of water and distribution and extinguishment of long-term storage credits with the director in accordance with this chapter and the water management objectives set forth in chapter 2 of this title.

4. Coordinate with CAWCD for the purchase, delivery and storage of Colorado river water delivered through the central Arizona project in accordance with this chapter.

5. Coordinate and confer with state agencies, municipal corporations, special districts, authorities, other political subdivisions, private entities, Indian communities and the United States on matters within their jurisdiction relating to the policy and purposes of this chapter.

6. Determine, on an annual basis, the quantity of Colorado river water to be stored by the authority and where that storage will occur.

7. Account for, hold and distribute or extinguish long-term storage credits in accordance with this chapter.

8. Comply with all aspects of chapter 3.1 of this title.

9. PERFORM THE AUTHORITY'S REPLENISHMENT RESPONSIBILITIES UNDER CHAPTER 15, ARTICLE 3 OF THIS TITLE WITH MONIES APPROPRIATED FROM THE STATE GENERAL FUND BY THE LEGISLATURE FOR THAT PURPOSE AND TO THE EXTENT THAT MONIES APPROPRIATED BY THE LEGISLATURE FOR THAT PURPOSE ARE NOT AVAILABLE, WITH MONIES COLLECTED IN THE PINAL ACTIVE MANAGEMENT AREA PURSUANT TO SECTION 45-611, SUBSECTION C, PARAGRAPH 3.

~~9.~~ 10. Adopt an official seal for the authentication of its records, decisions and resolutions.

~~10.~~ 11. Keep the minutes of its meetings and all records, reports and other information relating to its work and programs in permanent form, systematically indexed and filed.

B. The authority, acting through its commission, may:

1. Apply for and hold water storage permits.

2. Accrue, exchange, assign, lend and hold long-term storage credits in accordance with this chapter.

3. Exchange Colorado river water for any type of water in accordance with chapter 4 of this title.

4. Enter into water banking services agreements.

5. Charge fees for water banking services.



1           6. Apply for and hold any water quality permit required for water  
2 storage by the department of environmental quality under title 49, chapter 2,  
3 article 3 or by federal law.

4           7. Make and execute all contracts, including intergovernmental  
5 agreements pursuant to title 11, chapter 7, article 3, that shall be signed  
6 by the chairperson, or in the chairperson's absence the vice-chairperson, and  
7 attested by the secretary, necessary to:

8           (a) Obtain for storage Colorado river water delivered through the  
9 central Arizona project. Agreements by which the authority obtains Colorado  
10 river water are exempt from the requirements of title 41, chapter 23.

11           (b) Obtain effluent for storage but only after the authority has  
12 stored all available excess Central Arizona project water or when central  
13 Arizona project water is otherwise unavailable or undeliverable.

14           (c) Affiliate water storage permits held by the authority with storage  
15 facility permits.

16           (d) Store Colorado river water at permitted storage facilities.

17           (e) Distribute long-term storage credits earned by the authority to  
18 make water available to municipal and industrial users of Colorado river  
19 water in this state that are inside or outside of the CAWCD service area, in  
20 accordance with the provisions of this chapter.

21           (f) Store Colorado river water in Arizona on behalf of appropriately  
22 authorized agencies in California and Nevada.

23           (g) Cause a decrease in Arizona diversions from the Colorado river,  
24 ensuring that Arizona will use less than its full entitlement to Colorado  
25 river water in years in which California and Nevada agencies are  
26 contractually authorized to call on the water stored on their behalf by the  
27 authority.

28           (h) Distribute long-term storage credits earned by the authority on  
29 behalf of agencies in California and Nevada to Colorado river water users in  
30 Arizona to use in place of Colorado river water that would have otherwise  
31 been used by those Arizona users.

32           (i) REPLENISH WATER PURSUANT TO CHAPTER 15, ARTICLE 3 OF THIS TITLE,  
33 INCLUDING ENTERING INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE GILA RIVER  
34 INDIAN COMMUNITY PURSUANT TO SECTION 45-2624.

35           8. Sue and be sued.

36           9. Perform all other acts necessary for the authority to carry out its  
37 purposes, powers and duties in accordance with this chapter.

38           10. Submit a request for a general fund appropriation to the  
39 legislature each year. A request shall be accompanied by a budget detailing  
40 how the appropriation would be used and justifying the need for the  
41 appropriation.

42           11. Form temporary committees as deemed necessary by the authority to  
43 provide the authority with advice on issues identified by the authority.  
44 Advisory committees may consist of members of the public selected by the  
45 authority, members of the authority and authority staff.

1        12. Purchase long-term storage credits accrued by an Indian community  
2 pursuant to section 45-841.01, provided such long-term storage credits are  
3 distributed or extinguished in accordance with the rules of operation  
4 specified in section 45-2457 for the funds used by the authority to purchase  
5 the credits.

6        Sec. 5. Section 45-2425, Arizona Revised Statutes, is amended to read:  
7        45-2425. Arizona water banking fund

8        A. The Arizona water banking fund is established and shall include  
9 subaccounts based on funding sources. The authority shall administer the  
10 banking fund in accordance with this chapter.

11        B. The banking fund consists of all of the following:

12        1. Monies appropriated from the state general fund by the legislature  
13 FOR WATER BANKING PURPOSES OTHER THAN REPLENISHMENT UNDER CHAPTER 15, ARTICLE  
14 3 OF THIS TITLE.

15        2. MONIES APPROPRIATED FROM THE STATE GENERAL FUND BY THE LEGISLATURE  
16 FOR REPLENISHMENT UNDER CHAPTER 15, ARTICLE 3 OF THIS TITLE.

17        ~~2.~~ 3. Reimbursement for the distribution of long-term storage  
18 credits, collected by the authority in accordance with section 45-2457,  
19 subsection B, paragraph 2.

20        ~~3.~~ 4. Monies paid to the authority by the recipients of in lieu water  
21 at a groundwater savings facility, in accordance with section 45-2455,  
22 subsection C.

23        ~~4.~~ 5. Monies collected in accordance with section 45-611, subsection  
24 C, paragraph 3.

25        ~~5.~~ 6. Monies deposited in the banking fund in accordance with section  
26 48-3715.03, subsection B.

27        ~~6.~~ 7. Monies paid to the authority by agencies that have entered into  
28 interstate water banking agreements with the authority in accordance with  
29 section 45-2471.

30        ~~7.~~ 8. Monies paid to the authority by persons and Indian communities  
31 in this state that have entered into water banking services agreements with  
32 the authority in accordance with section 45-2458.

33        C. In addition to the monies prescribed in this section, the authority  
34 may accept any gifts, grants or donations and deposit those monies in the  
35 banking fund.

36        D. Monies in the banking fund are exempt from lapsing under section  
37 35-190. On notice from the authority, the state treasurer shall invest and  
38 divest monies in the fund as provided by section 35-313, and monies earned  
39 from investment shall be credited to the banking fund.

40        E. The authority may use the banking fund to pay all reasonable  
41 expenses incurred in carrying out its duties and responsibilities in  
42 accordance with this chapter.

1       Sec. 6. Section 45-2457, Arizona Revised Statutes, is amended to read:  
2       45-2457. Accounting; rules of operation

3       A. The authority shall develop an accounting system for the long-term  
4 storage credits accrued by the authority. The accounting system shall be  
5 designed to allow the authority to determine which funding source of the  
6 banking fund paid for each long-term storage credit accrued by the authority.

7       B. The authority shall operate in accordance with all of the following  
8 rules of operation:

9       1. The authority shall reserve a reasonable number of long-term  
10 storage credits accrued with general fund appropriations, OTHER THAN GENERAL  
11 FUND APPROPRIATIONS FOR REPLENISHMENT UNDER CHAPTER 15, ARTICLE 3 OF THIS  
12 TITLE, for the benefit of municipal and industrial users of Colorado river  
13 water in this state that are outside of the service area of CAWCD.

14       2. The authority may distribute long-term storage credits accrued with  
15 general fund appropriations, OTHER THAN GENERAL FUND APPROPRIATIONS FOR  
16 REPLENISHMENT UNDER CHAPTER 15, ARTICLE 3 OF THIS TITLE, for both of the  
17 following:

18       (a) To make water available to a municipal and industrial user of  
19 Colorado river water in this state that is outside of the service area of  
20 CAWCD, if both of the following apply:

21       (i) The municipal and industrial user would otherwise suffer a water  
22 shortage. The authority may distribute long-term credits to the extent  
23 reasonably necessary to offset the water shortage.

24       (ii) The authority collects reimbursement for the cost to the  
25 authority of replacing the long-term storage credits distributed. The  
26 authority may replace the long-term storage credits in any year it deems  
27 appropriate but shall use good faith efforts to replace the long-term storage  
28 credits at a reasonable cost to the person who is responsible for reimbursing  
29 the authority for the credits distributed.

30       (b) To make water available to CAWCD to the extent necessary for CAWCD  
31 to meet the demands of its municipal and industrial subcontractors, if all of  
32 the following apply:

33       (i) CAWCD's normal diversions from the Colorado river have been or  
34 will be disrupted by shortages on the river or by disruptions in the  
35 operation of the central Arizona project.

36       (ii) The authority does not distribute for this purpose the long-term  
37 storage credits reserved in accordance with paragraph 1.

38       (iii) The authority collects reimbursement from CAWCD for the cost to  
39 the authority of replacing the long-term storage credits distributed. The  
40 authority may replace the long-term storage credits in any year it deems  
41 appropriate but shall use good faith efforts to replace the long-term storage  
42 credits at a reasonable cost to CAWCD.

1        3. The authority may distribute or extinguish long-term storage  
2 credits accrued with general fund appropriations, OTHER THAN GENERAL FUND  
3 APPROPRIATIONS FOR REPLENISHMENT UNDER CHAPTER 15, ARTICLE 3 OF THIS TITLE,  
4 to implement the settlement of water right claims by Indian communities in  
5 this state.

6        4. On request from the director, the authority may extinguish  
7 long-term storage credits accrued with general fund appropriations, OTHER  
8 THAN GENERAL FUND APPROPRIATIONS FOR REPLENISHMENT UNDER CHAPTER 15, ARTICLE  
9 3 OF THIS TITLE, to fulfill the water management objectives set forth in  
10 chapter 2 of this title.

11       5. The authority may exchange long-term storage credits accrued with  
12 general fund appropriations for long-term storage credits held by other  
13 persons if the long-term storage credits received by the authority were  
14 stored in a location that better enables the authority to fulfill the  
15 purposes and policies of this chapter than were the long-term storage credits  
16 exchanged by the authority. For the purposes of this paragraph, the  
17 authority may make exchanges of long-term storage credits stored in one  
18 active management area for long-term storage credits stored in a different  
19 active management area or of long-term storage credits stored in one  
20 groundwater basin for long-term storage credits stored in a different  
21 groundwater basin.

22       6. The authority shall distribute or extinguish long-term storage  
23 credits accrued with monies collected in accordance with section 45-611,  
24 subsection C, paragraph 3 only for the benefit of the active management area  
25 in which the monies were collected. The authority may distribute or  
26 extinguish these long-term storage credits to implement the settlement of  
27 water right claims by Indian communities in this state or, on request from  
28 the director, to meet the water management objectives set forth in chapter 2  
29 of this title. THE AUTHORITY MAY USE THE MONIES COLLECTED IN THE PINAL  
30 ACTIVE MANAGEMENT AREA UNDER SECTION 45-611, SUBSECTION C, PARAGRAPH 3 TO  
31 ACQUIRE LONG-TERM STORAGE CREDITS FOR REPLENISHMENT PURPOSES UNDER CHAPTER  
32 15, ARTICLE 3 OF THIS TITLE.

33       7. The authority shall distribute long-term storage credits accrued  
34 with monies deposited in the fund in accordance with section 48-3715.03,  
35 subsection B only for the benefit of the county in which the monies were  
36 collected. The authority shall distribute these long-term storage credits to  
37 CAWCD to the extent necessary to meet the demands of CAWCD's municipal and  
38 industrial subcontractors during times in which CAWCD's diversions from the  
39 Colorado river have been or will be disrupted by shortages on the Colorado  
40 river or by disruptions in operation of the central Arizona project.

41       8. For each county within the CAWCD service area, on a determination  
42 by the authority that the number of long-term storage credits accrued with  
43 monies deposited in the fund in accordance with section 48-3715.03,  
44 subsection B exceeds the needs specified in paragraph 7 for that county, the  
45 authority shall distribute those excess long-term storage credits to

1 municipal water providers within that county that are at the time of  
2 distribution experiencing surface water supply shortages not associated with  
3 the central Arizona project. The authority shall distribute to each such  
4 municipal water provider the lesser of the following number of long-term  
5 storage credits:

6 (a) The total number of credits determined to be available by the  
7 authority under this paragraph multiplied by the percentage produced by  
8 dividing a numerator equaling the amount of revenues paid pursuant to section  
9 48-3715.02, subsections B and C by taxpayers that are within both the  
10 boundaries of the municipal provider that is experiencing the shortage and  
11 the boundaries of the surface water supply system that is experiencing the  
12 shortage by a denominator equaling the total revenues paid pursuant to  
13 section 48-3715.02, subsections B and C by all taxpayers that are located  
14 within both the boundaries of a municipal water provider and the boundaries  
15 of a surface water supply system in the county. In making these  
16 computations, the authority shall use the amounts of revenue paid by  
17 taxpayers during the most recent tax year for which this information is  
18 available.

19 (b) Twenty per cent of the total surface water shortage that the  
20 municipal and industrial water provider is experiencing.

21 9. The authority shall distribute or replace long-term storage credits  
22 accrued with monies collected pursuant to water banking services agreements  
23 in accordance with the terms of those agreements.

24 10. THE AUTHORITY SHALL ACQUIRE SUFFICIENT WATER SUPPLIES TO PERFORM  
25 ITS REPLENISHMENT RESPONSIBILITIES UNDER CHAPTER 15, ARTICLE 3 OF THIS TITLE.  
26 THE AUTHORITY SHALL ACQUIRE THOSE WATER SUPPLIES WITH MONIES APPROPRIATED  
27 FROM THE STATE GENERAL FUND BY THE LEGISLATURE FOR REPLENISHMENT UNDER  
28 CHAPTER 15, ARTICLE 3 OF THIS TITLE AND TO THE EXTENT THAT MONIES  
29 APPROPRIATED BY THE LEGISLATURE FOR THAT PURPOSE ARE NOT AVAILABLE, WITH  
30 MONIES COLLECTED IN THE PINAL ACTIVE MANAGEMENT AREA UNDER SECTION 45-611,  
31 SUBSECTION C, PARAGRAPH 3. THE AUTHORITY SHALL USE THE WATER SUPPLIES  
32 ACQUIRED PURSUANT TO THIS PARAGRAPH FOR ANY REPLENISHMENT ACTIVITY AUTHORIZED  
33 BY SECTION 45-2623 AND FOR IMPLEMENTATION OF THE SOUTHSIDE REPLENISHMENT BANK  
34 ESTABLISHED BY SECTION 45-2624, INCLUDING DELIVERING WATER DIRECTLY TO THE  
35 GILA RIVER INDIAN COMMUNITY FOR THOSE PURPOSES.

36 C. Any other long-term storage credits accrued by the authority may be  
37 distributed or extinguished by the authority in accordance with the policy  
38 and purposes of this chapter.

39 D. Except as provided by subsection B, paragraph 7 of this section and  
40 except as provided by agreements entered into by the authority, the decision  
41 to distribute or extinguish any long-term storage credit accrued by the  
42 authority is at the complete discretion of the authority.

1       Sec. 7. Title 45, Arizona Revised Statutes, is amended by adding  
2 chapter 15, to read:

3                               CHAPTER 15

4               GILA RIVER INDIAN COMMUNITY WATER SETTLEMENT PROGRAM

5                               ARTICLE 1. ADMINISTRATION

6       45-2601. Definitions

7       UNLESS THE CONTEXT OTHERWISE REQUIRES, THE TERMS DEFINED IN SECTIONS  
8 45-402 AND 45-802.01 HAVE THE SAME MEANING IN THIS CHAPTER AND FOR THE  
9 PURPOSES OF THIS CHAPTER:

10       1. "CENTRAL PROTECTION ZONE" MEANS THE CENTRAL PROTECTION ZONE  
11 ESTABLISHED UNDER SECTION 45-2602.

12       2. "COMMUNITY" MEANS THE GILA RIVER INDIAN COMMUNITY, A GOVERNMENT  
13 COMPOSED OF MEMBERS OF THE PIMA TRIBE AND THE MARICOPA TRIBE AND ORGANIZED  
14 UNDER SECTION 16 OF THE ACT OF JUNE 18, 1934 (25 UNITED STATES CODE SECTION  
15 476).

16       3. "DAM" HAS THE MEANING PRESCRIBED IN SECTION 45-1201 ON JANUARY 1,  
17 2005.

18       4. "DESIGNED STORAGE CAPACITY" MEANS THE STORAGE CAPACITY IN ACRE-FEET  
19 OF A RESERVOIR AT THE ELEVATION OF THE LOWEST SPILLWAY IN THE DAM IMPOUNDING  
20 WATER IN THE RESERVOIR, AS THE DAM WAS ORIGINALLY CONSTRUCTED.

21       5. "EASTERN PROTECTION ZONE" MEANS THE EASTERN PROTECTION ZONE NORTH  
22 OR THE EASTERN PROTECTION ZONE SOUTH.

23       6. "EASTERN PROTECTION ZONE NORTH" MEANS THE EASTERN PROTECTION ZONE  
24 NORTH ESTABLISHED UNDER SECTION 45-2602, SUBSECTION A.

25       7. "EASTERN PROTECTION ZONE SOUTH" MEANS THE EASTERN PROTECTION ZONE  
26 SOUTH ESTABLISHED UNDER SECTION 45-2602, SUBSECTION A.

27       8. "GILA RIVER MAINTENANCE AREA" MEANS THE GILA RIVER MAINTENANCE AREA  
28 ESTABLISHED UNDER SECTION 45-2603, SUBSECTION A.

29       9. "GILA RIVER MAINTENANCE AREA IMPACT ZONE" MEANS THE GILA RIVER  
30 MAINTENANCE AREA IMPACT ZONE ESTABLISHED UNDER SECTION 45-2603, SUBSECTION B.

31       10. "GLOBE EQUITY DECREE" MEANS THE DECREE DATED JUNE 29, 1935 AND  
32 ENTERED IN UNITED STATES OF AMERICA v. GILA VALLEY IRRIGATION DISTRICT, GLOBE  
33 EQUITY NO. 59, ET AL. BY THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF  
34 ARIZONA AND INCLUDES ALL COURT ORDERS AND DECISIONS SUPPLEMENTAL TO THAT  
35 DECREE.

36       11. "INDUSTRIAL USE" MEANS ALL OF THE FOLLOWING:

37       (a) A NONIRRIGATION USE OF WATER COMMENCED AFTER DECEMBER 31, 2002  
38 THAT IS NOT SUPPLIED BY A MUNICIPAL PROVIDER, INCLUDING ANIMAL INDUSTRY USE  
39 AND EXPANDED ANIMAL INDUSTRY USE.

40       (b) A USE OF GROUNDWATER COMMENCED BEFORE JANUARY 1, 2003 BY A HOLDER  
41 OF A TYPE 1 NONIRRIGATION GRANDFATHERED RIGHT IN EXISTENCE ON DECEMBER 31,  
42 2002, OTHER THAN A TYPE 1 NONIRRIGATION GRANDFATHERED RIGHT HELD BY A  
43 MUNICIPAL PROVIDER AND OTHER THAN A USE UNDER ANOTHER GROUNDWATER RIGHT OR  
44 PERMIT, IN EXCESS OF THE AMOUNT ALLOWED UNDER THE TYPE 1 NONIRRIGATION  
45 GRANDFATHERED RIGHT.

1 (c) A USE OF GROUNDWATER COMMENCED BEFORE JANUARY 1, 2003 BY A HOLDER  
2 OF A TYPE 2 NONIRRIGATION GRANDFATHERED RIGHT IN EXISTENCE ON DECEMBER 31,  
3 2002, OTHER THAN A TYPE 2 NONIRRIGATION GRANDFATHERED RIGHT HELD BY A  
4 MUNICIPAL PROVIDER, IN EXCESS OF THE AMOUNT ALLOWED UNDER THE RIGHT AND FOR  
5 WHICH THE HOLDER HAS NO OTHER GROUNDWATER RIGHT.

6 (d) A USE OF GROUNDWATER COMMENCED BEFORE JANUARY 1, 2003 BY A HOLDER  
7 OF A GENERAL INDUSTRIAL USE PERMIT ISSUED UNDER SECTION 45-515 AND IN  
8 EXISTENCE ON DECEMBER 31, 2002, OTHER THAN A USE UNDER ANOTHER GROUNDWATER  
9 RIGHT OR PERMIT, IN EXCESS OF THE AMOUNT ALLOWED UNDER THE GENERAL INDUSTRIAL  
10 USE PERMIT.

11 12. "IRRIGATION USE" MEANS THE USE OF WATER ON TWO OR MORE ACRES OF  
12 LAND TO PRODUCE PLANTS OR PARTS OF PLANTS FOR SALE OR HUMAN CONSUMPTION, OR  
13 FOR USE AS FEED FOR LIVESTOCK, RANGE LIVESTOCK OR POULTRY, AS DEFINED IN  
14 SECTION 3-1201.

15 13. "MUNICIPAL ACRE" MEANS THE ACRE OR ACRES OF LAND WITHIN A  
16 PROTECTION ZONE, ON WHICH WATER PUMPED FROM WITHIN A PROTECTION ZONE IS  
17 SUPPLIED BY A MUNICIPAL PROVIDER, ON WHICH WATER USE WAS FIRST COMMENCED  
18 AFTER DECEMBER 31, 2002 AND FOR WHICH THE WATER USE IS REPORTED PURSUANT TO  
19 SECTION 45-632, 45-875.01 OR 45-2602.

20 14. "MUNICIPAL PROVIDER" MEANS A CITY, TOWN, PRIVATE WATER COMPANY OR  
21 IRRIGATION DISTRICT THAT SUPPLIES WATER FOR NONIRRIGATION USE.

22 15. "MUNICIPAL USE" MEANS A NONIRRIGATION USE OF WATER COMMENCED AFTER  
23 DECEMBER 31, 2002 AND SUPPLIED BY A MUNICIPAL PROVIDER ON MUNICIPAL ACRES.

24 16. "NONIRRIGATION USE" MEANS A USE OF WATER WITHDRAWN FROM A WELL,  
25 OTHER THAN AN IRRIGATION USE.

26 17. "RESERVATION" MEANS THE GILA RIVER INDIAN COMMUNITY RESERVATION.

27 18. "SETTLEMENT AGREEMENT" MEANS THE AGREEMENT ENTITLED THE "GILA RIVER  
28 INDIAN COMMUNITY WATER RIGHTS SETTLEMENT AGREEMENT", DATED FEBRUARY 4, 2003  
29 BETWEEN THE COMMUNITY, THIS STATE AND OTHER PARTIES, AS AMENDED BEFORE THE  
30 EFFECTIVE DATE OF THIS SECTION, A COPY OF WHICH IS ON FILE IN THE DEPARTMENT.

31 19. "SOUTHSIDE PROTECTION ZONES" MEANS THE EASTERN PROTECTION ZONE  
32 NORTH, THE EASTERN PROTECTION ZONE SOUTH, THE WESTERN MUNICIPAL PROTECTION  
33 ZONE, THE WESTERN MUNICIPAL AND INDUSTRIAL PROTECTION ZONE AND THE CENTRAL  
34 PROTECTION ZONE.

35 20. "STOCKPOND" MEANS A POND THAT HAS A CAPACITY OF NOT MORE THAN  
36 FIFTEEN ACRE-FEET AND THAT IS USED SOLELY FOR WATERING LIVESTOCK OR WILDLIFE.  
37 STOCKPOND DOES NOT INCLUDE A POND USED PRIMARILY FOR FISHING OR FOR THE  
38 CULTURING OF FISH.

39 21. "STORED WATER" MEANS WATER THAT HAS BEEN STORED OR SAVED  
40 UNDERGROUND PURSUANT TO A STORAGE PERMIT ISSUED UNDER CHAPTER 3.1 OF THIS  
41 TITLE.

42 22. "UNDERGROUND WATER" MEANS WATER, OTHER THAN STORED WATER, WITHDRAWN  
43 FROM A WELL.

44 23. "WATER COMPANY" MEANS EITHER OF THE FOLLOWING:

1 (a) A PRIVATE WATER COMPANY THAT AS OF JANUARY 1, 2000 WAS REGULATED  
2 AS A PUBLIC SERVICE CORPORATION BY THE ARIZONA CORPORATION COMMISSION AND WAS  
3 WITHDRAWING UNDERGROUND WATER FROM LANDS NOW WITHIN THE EASTERN PROTECTION  
4 ZONE NORTH.

5 (b) ANY SUCCESSOR OF A PRIVATE WATER COMPANY DESCRIBED IN SUBDIVISION  
6 (a) OF THIS PARAGRAPH.

7 24. "WESTERN MUNICIPAL AND INDUSTRIAL PROTECTION ZONE" MEANS THE  
8 WESTERN MUNICIPAL AND INDUSTRIAL PROTECTION ZONE ESTABLISHED UNDER SECTION  
9 45-2602, SUBSECTION A.

10 25. "WESTERN MUNICIPAL PROTECTION ZONE" MEANS THE WESTERN MUNICIPAL  
11 PROTECTION ZONE ESTABLISHED UNDER SECTION 45-2602, SUBSECTION A.

12 26. "WESTERN PROTECTION ZONES" MEANS THE WESTERN MUNICIPAL PROTECTION  
13 ZONE AND THE WESTERN MUNICIPAL AND INDUSTRIAL PROTECTION ZONE.

14 45-2603. Establishment of Gila river maintenance area and Gila  
15 river maintenance area impact zone; notice of  
16 intention to drill

17 A. THE GILA RIVER MAINTENANCE AREA IS ESTABLISHED ON THE EFFECTIVE  
18 DATE OF THIS SECTION. THE BOUNDARIES OF THE GILA RIVER MAINTENANCE AREA ARE  
19 SHOWN ON THE MAP THAT IS DATED JULY, 2002 AND THAT IS ON FILE IN THE  
20 DEPARTMENT. THE MAP SHALL BE AVAILABLE FOR EXAMINATION BY THE PUBLIC DURING  
21 REGULAR BUSINESS HOURS.

22 B. THE GILA RIVER MAINTENANCE AREA IMPACT ZONE IS ESTABLISHED ON THE  
23 EFFECTIVE DATE OF THIS SECTION. THE BOUNDARIES OF THE GILA RIVER MAINTENANCE  
24 AREA IMPACT ZONE ARE SHOWN ON THE MAP THAT IS DATED JULY, 2002 AND THAT IS ON  
25 FILE IN THE DEPARTMENT.

26 C. IF A PROPOSED WELL WILL WITHDRAW WATER WITHIN THE GILA RIVER  
27 MAINTENANCE AREA IMPACT ZONE ESTABLISHED UNDER SUBSECTION B OF THIS SECTION,  
28 AS DETERMINED PURSUANT TO SECTION 45-2641, SUBSECTION A, AND THE WATER WILL  
29 BE USED TO IRRIGATE LANDS WITHIN THE GILA RIVER MAINTENANCE AREA ESTABLISHED  
30 UNDER SUBSECTION A OF THIS SECTION AND OUTSIDE OF COCHISE COUNTY, THE NOTICE  
31 OF INTENTION TO DRILL FILED PURSUANT TO SECTION 45-596 SHALL INCLUDE ONE OF  
32 THE FOLLOWING:

33 1. PROOF THAT THE LANDS TO BE IRRIGATED WERE IRRIGATED WITH WATER FROM  
34 ANY SOURCE AT ANY TIME FROM JANUARY 1, 2000 THROUGH THE EFFECTIVE DATE OF  
35 THIS SECTION.

36 2. PROOF THAT THE IRRIGATION IS ALLOWED UNDER THE EXEMPTIONS  
37 PRESCRIBED IN SECTION 45-2641, SUBSECTION B, PARAGRAPH 1, 2 OR 4.

38 ARTICLE 4. DAMS WITHIN GILA RIVER MAINTENANCE AREA

39 45-2631. Construction or enlargement of new dams within  
40 maintenance area; prohibited; exceptions

41 A. BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION, A PERSON SHALL NOT  
42 CONSTRUCT A NEW DAM OR ENLARGE AN EXISTING DAM WITHIN THE GILA RIVER  
43 MAINTENANCE AREA, AND THE DIRECTOR SHALL NOT ISSUE A PERMIT UNDER CHAPTER 6  
44 OF THIS TITLE TO CONSTRUCT A NEW DAM OR ENLARGE AN EXISTING DAM WITHIN THE  
45 GILA RIVER MAINTENANCE AREA.



1           B. THIS SECTION DOES NOT APPLY TO:  
2           1. THE CONSTRUCTION OR ENLARGEMENT OF ANY OF THE FOLLOWING:  
3           (a) FLOOD CONTROL STRUCTURES.  
4           (b) STRUCTURES FOR IMPOUNDING MINE TAILINGS.  
5           (c) IMPOUNDMENTS WITHIN HARDROCK MINES OR INDUSTRIAL FACILITIES, OR  
6 BOTH, FOR ENVIRONMENTAL CONTROL OR PROCESS MANAGEMENT PURPOSES.  
7           (d) IMPOUNDMENTS FOR DIVERTING SURFACE WATER FLOWS AROUND HARDROCK  
8 MINES OR INDUSTRIAL FACILITIES, OR BOTH.  
9           (e) GROUNDWATER IMPOUNDMENTS.  
10          (f) EFFLUENT IMPOUNDMENTS.  
11          (g) STOCKPONDS.  
12          (h) IMPOUNDMENTS THAT MAY BE CONSTRUCTED TO STORE WATER OTHERWISE  
13 AUTHORIZED TO BE USED BY A PARTY TO THE SETTLEMENT AGREEMENT.  
14          (i) DAMS USED TO DIVERT OR STORE WATER THAT IS DECREED WATER UNDER THE  
15 GLOBE EQUITY DECREE.  
16          2. THE CONSTRUCTION OF A DAM THAT REPLACES A DAM IN EXISTENCE WITHIN  
17 THE GILA RIVER MAINTENANCE AREA ON THE EFFECTIVE DATE OF THIS SECTION IF THE  
18 REPLACEMENT DAM IS IN CLOSE PROXIMITY TO THE ORIGINAL DAM AND THE DESIGNED  
19 STORAGE CAPACITY OF THE REPLACEMENT DAM DOES NOT EXCEED THE DESIGNED STORAGE  
20 CAPACITY OF THE ORIGINAL DAM.  
21          3. THE ENLARGEMENT OF A DAM WITHIN THE GILA RIVER MAINTENANCE AREA IF  
22 THE ENLARGEMENT DOES NOT INCREASE THE DESIGNED STORAGE CAPACITY OF THE DAM.  
23          4. THE MODIFICATION OR REPAIR OF A DAM WITHIN THE GILA RIVER  
24 MAINTENANCE AREA AS NECESSARY TO COMPLY WITH THE DAM SAFETY REQUIREMENTS IN  
25 CHAPTER 6 OF THIS TITLE AND ANY RULES ADOPTED BY THE DIRECTOR UNDER THAT  
26 CHAPTER, IF THE MODIFICATION OR REPAIR DOES NOT INCREASE THE DESIGNED STORAGE  
27 CAPACITY OF THE DAM. FOR THE PURPOSES OF THIS PARAGRAPH, "MODIFICATION OR  
28 REPAIR OF A DAM" INCLUDES THE DESILTING, LINING OR REHABILITATION OF A DAM.  
29          C. THE DIRECTOR SHALL NOT APPROVE AN APPLICATION UNDER SECTION 45-1207  
30 FOR CONSTRUCTION OR ENLARGEMENT OF A DAM IN THE GILA RIVER MAINTENANCE AREA  
31 ESTABLISHED UNDER SECTION 45-2603 IF THE APPLICANT IS PROHIBITED FROM  
32 CONSTRUCTING OR ENLARGING THE DAM, AS APPLICABLE, UNDER THIS SECTION.  
33          D. ANY VIOLATIONS OF THIS ARTICLE ARE SUBJECT TO ENFORCEMENT UNDER  
34 ARTICLE 6 OF THIS CHAPTER ON THE EFFECTIVE DATE, OF ARTICLE 6 OF THIS CHAPTER,  
35 AND SUCH ENFORCEMENT MAY INCLUDE INJUNCTIVE RELIEF THAT REQUIRES REMOVAL OF  
36 ANY STRUCTURES CONSTRUCTED IN VIOLATION OF THIS ARTICLE. ANY DELAY BETWEEN  
37 THE DATE OF THE ALLEGED VIOLATION OF THIS ARTICLE AND THE DATE OF ANY  
38 ENFORCEMENT ACTION PURSUANT TO ARTICLE 6 OF THIS CHAPTER SHALL NOT BE A  
39 FACTOR IN DETERMINING WHETHER TO ISSUE AN INJUNCTION PURSUANT TO ARTICLE 6 OF  
40 THIS CHAPTER.

ARTICLE 5. IRRIGATION OF NEW LANDS WITHIN GILA RIVER  
MAINTENANCE AREA

45-2641. Irrigation of new lands in Gila river maintenance area  
with water withdrawn or diverted from Gila river  
maintenance area impact zone prohibited; exception

A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, A PERSON SHALL NOT USE WATER WITHDRAWN OR DIVERTED WITHIN THE GILA RIVER MAINTENANCE AREA IMPACT ZONE TO IRRIGATE LAND WITHIN THE GILA RIVER MAINTENANCE AREA UNLESS THE LAND WAS IRRIGATED WITH WATER FROM ANY SOURCE AT ANY TIME FROM JANUARY 1, 2000 THROUGH THE EFFECTIVE DATE OF THIS SECTION. FOR THE PURPOSES OF THIS SECTION, WATER IS WITHDRAWN OR DIVERTED WITHIN THE GILA RIVER MAINTENANCE AREA IMPACT ZONE IF ONE OF THE FOLLOWING APPLIES:

1. THE WATER IS WITHDRAWN FROM A WELL LOCATED WITHIN THE GILA RIVER MAINTENANCE AREA IMPACT ZONE.

2. THE WATER IS SURFACE WATER DIVERTED ON THE SURFACE AT A LOCATION WITHIN THE GILA RIVER MAINTENANCE AREA IMPACT ZONE.

3. THE WATER IS WITHDRAWN BY A WELL LOCATED OUTSIDE OF THE GILA RIVER MAINTENANCE AREA IMPACT ZONE AND THE WELL'S CONE OF DEPRESSION CAPTURES SURFACE WATER WITHIN THE GILA RIVER MAINTENANCE AREA IMPACT ZONE AS DETERMINED BY A CONE OF DEPRESSION TEST ADOPTED BY THE SUPERIOR COURT WITH JURISDICTION OVER THE GENERAL ADJUDICATION OF ALL RIGHTS TO USE WATER IN THE GILA RIVER SYSTEM AND SOURCE.

B. THIS SECTION DOES NOT APPLY TO:

1. THE IRRIGATION OF LANDS PURSUANT TO AN APPROPRIATIVE RIGHT WITH A PRIORITY DATE EARLIER THAN THE EFFECTIVE DATE OF THIS SECTION AND THE IRRIGATION OF LANDS TO WHICH THE RIGHT IS SEVERED AND TRANSFERRED.

2. THE IRRIGATION OF LANDS IF THE IRRIGATION IS ALLOWED UNDER THE SETTLEMENT AGREEMENT.

3. THE IRRIGATION OF LANDS WITHIN THE PORTION OF THE GILA RIVER MAINTENANCE AREA LOCATED IN COCHISE COUNTY.

4. THE IRRIGATION OF LANDS IF THE IRRIGATION IS ALLOWED UNDER THE GLOBE EQUITY DECREE OR UNDER OTHER RIGHTS DECREED BEFORE THE EFFECTIVE DATE OF THIS SECTION AND THE IRRIGATION OF LANDS TO WHICH THE RIGHT IS SEVERED AND TRANSFERRED.

C. ANY VIOLATIONS OF THIS ARTICLE ARE SUBJECT TO ENFORCEMENT UNDER ARTICLE 6 OF THIS CHAPTER ON THE EFFECTIVE DATE OF ARTICLE 6 OF THIS CHAPTER, AND SUCH ENFORCEMENT MAY INCLUDE INJUNCTIVE RELIEF THAT REQUIRES REMOVAL OF ANY STRUCTURES CONSTRUCTED IN VIOLATION OF THIS ARTICLE. ANY DELAY BETWEEN THE DATE OF THE ALLEGED VIOLATION OF THIS ARTICLE AND THE DATE OF ANY ENFORCEMENT ACTION PURSUANT TO ARTICLE 6 OF THIS CHAPTER SHALL NOT BE A FACTOR IN DETERMINING WHETHER TO ISSUE AN INJUNCTION PURSUANT TO ARTICLE 6 OF THIS CHAPTER.

1       Sec. 8. Title 45, chapter 15, article 1, Arizona Revised Statutes, as  
2 added by this act, is amended by adding sections 45-2602 and 45-2604, to  
3 read:

4       45-2602. Establishment of southside protection zones; reporting  
5                   requirements

6       A. THE FOLLOWING SOUTHSIDE PROTECTION ZONES ARE ESTABLISHED ON THE  
7 EFFECTIVE DATE OF THIS SECTION:

- 8       1. THE EASTERN PROTECTION ZONE NORTH.
- 9       2. THE EASTERN PROTECTION ZONE SOUTH.
- 10      3. THE WESTERN MUNICIPAL AND INDUSTRIAL PROTECTION ZONE.
- 11      4. THE WESTERN MUNICIPAL PROTECTION ZONE.
- 12      5. THE CENTRAL PROTECTION ZONE.

13      B. THE BOUNDARIES OF THE SOUTHSIDE PROTECTION ZONES ESTABLISHED UNDER  
14 SUBSECTION A ARE SHOWN ON THE MAPS THAT ARE DATED MARCH 25, 2002 AND THAT ARE  
15 ON FILE IN THE DEPARTMENT. THE MAPS SHALL BE AVAILABLE FOR EXAMINATION BY  
16 THE PUBLIC DURING REGULAR BUSINESS HOURS.

17      C. EACH PERSON IN THE PINAL ACTIVE MANAGEMENT AREA WHO WITHDRAWS  
18 UNDERGROUND WATER DURING A CALENDAR YEAR IN A SOUTHSIDE PROTECTION ZONE  
19 ESTABLISHED UNDER THIS SECTION, OTHER THAN THE CENTRAL PROTECTION ZONE, SHALL  
20 FILE AN ANNUAL REPORT WITH THE DIRECTOR NO LATER THAN MARCH 31 OF EACH YEAR  
21 FOR THE PRECEDING CALENDAR YEAR. THE REPORT SHALL CONTAIN THE FOLLOWING  
22 INFORMATION IN ADDITION TO ANY OTHER INFORMATION REQUIRED BY SECTION 45-632:

23       1. THE AMOUNT OF UNDERGROUND WATER WITHDRAWN WITHIN THE SOUTHSIDE  
24 PROTECTION ZONE AND THE NAME OF THE PROTECTION ZONE.

25       2. IF THE UNDERGROUND WATER WAS USED FOR A NONIRRIGATION USE, THE  
26 PURPOSE FOR WHICH THE UNDERGROUND WATER WAS USED, THE LOCATION OF THE USE,  
27 THE ACREAGE OF THE PARCEL OR PARCELS OF LAND ON WHICH THE UNDERGROUND WATER  
28 WAS USED AND THE DATE THE USE COMMENCED.

29       3. THE AMOUNT OF ANY WATER REPLENISHED DURING THE YEAR PURSUANT TO  
30 SECTION 45-2611, SUBSECTION B, PARAGRAPH 2, THE WATER USE FOR WHICH THE WATER  
31 WAS REPLENISHED AND THE MANNER IN WHICH THE WATER WAS REPLENISHED.

32       4. THE AMOUNT OF ANY WATER REPLACED DURING THE YEAR PURSUANT TO  
33 SECTION 45-2611, SUBSECTION B, PARAGRAPH 3, THE WATER USE FOR WHICH THE WATER  
34 WAS REPLACED AND THE MANNER IN WHICH THE WATER WAS REPLACED.

35      D. A PERSON WHO IS REQUIRED TO FILE AN ANNUAL REPORT FOR A YEAR UNDER  
36 SUBSECTION C OF THIS SECTION:

37       1. SHALL USE A WATER MEASURING DEVICE APPROVED BY THE DIRECTOR UNLESS  
38 EXEMPT UNDER SECTION 45-604.

39       2. SHALL MAINTAIN CURRENT ACCURATE RECORDS OF THE PERSON'S  
40 WITHDRAWALS, TRANSPORTATION, DELIVERIES AND USE OF UNDERGROUND WATER AS  
41 PRESCRIBED BY THE DIRECTOR.

42       3. MAY COMBINE THE REPORT WITH AN ANNUAL REPORT FOR THE SAME YEAR  
43 FILED UNDER SECTION 45-632.

1 4. SHALL COMPLY WITH THE REQUIREMENTS PRESCRIBED IN SECTION 45-632,  
2 SUBSECTIONS N, O AND P AND IS SUBJECT TO THE PENALTIES PRESCRIBED IN SECTION  
3 45-632, SUBSECTION O AS IF THE REPORT WAS REQUIRED BY SECTION 45-632.

4 E. A PERSON WHO WITHDRAWS UNDERGROUND WATER FROM AN EXEMPT WELL IS  
5 EXEMPT FROM THE RECORD KEEPING AND REPORTING REQUIREMENTS OF SUBSECTIONS C  
6 AND D OF THIS SECTION. FOR THE PURPOSES OF THIS SUBSECTION, "EXEMPT WELL"  
7 MEANS A WELL THAT HAS A PUMP WITH A MAXIMUM CAPACITY OF NOT MORE THAN  
8 THIRTY-FIVE GALLONS PER MINUTE, THAT IS USED TO WITHDRAW UNDERGROUND WATER  
9 AND THAT WOULD QUALIFY AS AN EXEMPT WELL UNDER SECTION 45-454 IF USED TO  
10 WITHDRAW GROUNDWATER.

11 F. IF STORED WATER IS WITHDRAWN IN THE PINAL ACTIVE MANAGEMENT AREA IN  
12 A SOUTHSIDE PROTECTION ZONE ESTABLISHED UNDER THIS SECTION, OTHER THAN THE  
13 CENTRAL PROTECTION ZONE, THE ANNUAL REPORT FILED UNDER SECTION 45-875.01,  
14 SUBSECTION D SHALL INCLUDE:

15 1. THE AMOUNT OF STORED WATER WITHDRAWN WITHIN THE SOUTHSIDE  
16 PROTECTION ZONE AND THE NAME OF THE PROTECTION ZONE.

17 2. IF THE STORED WATER WAS USED FOR A NONIRRIGATION USE, THE PURPOSE  
18 FOR WHICH THE WATER WAS USED, THE ACREAGE OF THE PARCEL OR PARCELS OF LAND ON  
19 WHICH THE WATER WAS USED, THE LOCATION OF THE USE AND THE DATE THE USE  
20 COMMENCED.

21 3. THE IDENTIFICATION OF THE STORAGE FACILITY IN WHICH THE WATER WAS  
22 STORED.

23 4. THE AMOUNT OF ANY WATER REPLENISHED DURING THE YEAR PURSUANT TO  
24 SECTION 45-2611, SUBSECTION B, PARAGRAPH 2, THE WATER USE FOR WHICH THE WATER  
25 WAS REPLENISHED AND THE MANNER IN WHICH THE WATER WAS REPLENISHED.

26 5. THE AMOUNT OF ANY WATER REPLACED DURING THE YEAR PURSUANT TO  
27 SECTION 45-2611, SUBSECTION B, PARAGRAPH 3, THE WATER USE FOR WHICH THE WATER  
28 WAS REPLACED AND THE MANNER IN WHICH THE WATER WAS REPLACED.

29 45-2604. Conservation requirements for persons using  
30 groundwater in central protection zone no less  
31 restrictive than in third management plan

32 NOTWITHSTANDING ANY OTHER LAW, BEGINNING ON THE EFFECTIVE DATE OF THIS  
33 SECTION, WHEN ADOPTING OR MODIFYING A MANAGEMENT PLAN FOR THE PINAL ACTIVE  
34 MANAGEMENT AREA PURSUANT TO CHAPTER 2, ARTICLE 9 OF THIS TITLE, THE  
35 CONSERVATION REQUIREMENTS ADOPTED BY THE DIRECTOR FOR PERSONS USING  
36 GROUNDWATER WITHIN THE CENTRAL PROTECTION ZONE SHALL BE NO LESS RESTRICTIVE  
37 THAN THE CONSERVATION REQUIREMENTS FOR PERSONS USING GROUNDWATER WITHIN THE  
38 CENTRAL PROTECTION ZONE AS ESTABLISHED IN THE MANAGEMENT PLAN FOR THE PINAL  
39 ACTIVE MANAGEMENT AREA FOR THE THIRD MANAGEMENT PERIOD IN EFFECT ON JANUARY  
40 1, 2005 OR AS ADJUSTED AFTER THAT DATE AS A RESULT OF JUDICIAL REVIEW OR  
41 ADMINISTRATIVE REVIEW PURSUANT TO SECTION 45-570 OR 45-575.

1       Sec. 9. Title 45, chapter 15, Arizona Revised Statutes, as added by  
2 this act, is amended by adding articles 2, 3 and 6, to read:

3       ARTICLE 2. TRANSPORTATION OF UNDERGROUND WATER AND STORED  
4       WATER AWAY FROM EASTERN PROTECTION ZONES AND  
5       WESTERN PROTECTION ZONES

6       45-2611. Transportation of underground water and stored water  
7       away from an eastern protection zone or western  
8       protection zone prohibited; exceptions

9       A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, BEGINNING ON  
10 THE EFFECTIVE DATE OF THIS SECTION, UNDERGROUND WATER OR STORED WATER  
11 WITHDRAWN IN AN EASTERN PROTECTION ZONE OR A WESTERN PROTECTION ZONE MAY NOT  
12 BE TRANSPORTED AWAY FROM THE PROTECTION ZONE IN WHICH THE WATER WAS WITHDRAWN  
13 IF THE TRANSPORTATION IS FOR A NONIRRIGATION USE.

14       B. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO ANY OF THE  
15 FOLLOWING:

16       1. THE TRANSPORTATION OF UNDERGROUND WATER OR STORED WATER AWAY FROM  
17 AN EASTERN PROTECTION ZONE OR A WESTERN PROTECTION ZONE FOR A NONIRRIGATION  
18 USE IN AN ANNUAL AMOUNT THAT DOES NOT EXCEED THE HIGHEST ANNUAL VOLUME OF  
19 UNDERGROUND WATER OR STORED WATER TRANSPORTED AWAY FROM THE SAME PROTECTION  
20 ZONE FOR THAT USE DURING CALENDAR YEARS 1999 THROUGH 2001.

21       2. THE TRANSPORTATION OF UNDERGROUND WATER OR STORED WATER AWAY FROM  
22 AN EASTERN PROTECTION ZONE OR A WESTERN PROTECTION ZONE FOR A NONIRRIGATION  
23 USE IF THE PERSON TRANSPORTING THE UNDERGROUND WATER OR STORED WATER  
24 REPLENISHES THE WATER AS PROVIDED IN SECTION 45-2625 WITHIN TWENTY-FOUR  
25 MONTHS AFTER THE END OF THE CALENDAR YEAR IN WHICH THE TRANSPORTATION OCCURS.

26       3. THE TRANSPORTATION OF UNDERGROUND WATER OR STORED WATER AWAY FROM  
27 AN EASTERN PROTECTION ZONE OR A WESTERN PROTECTION ZONE FOR A NONIRRIGATION  
28 USE IF THE PERSON TRANSPORTING THE UNDERGROUND WATER OR STORED WATER REPLACES  
29 THE WATER WITH AN EQUIVALENT AMOUNT OF WATER IMPORTED INTO THAT PROTECTION  
30 ZONE WITHIN THE SAME CALENDAR YEAR IN WHICH THE TRANSPORTATION OCCURS.

31       4. THE TRANSPORTATION OF STORED WATER AWAY FROM AN EASTERN PROTECTION  
32 ZONE OR A WESTERN PROTECTION ZONE IF THE STORED WATER WAS ORIGINALLY STORED  
33 IN THE PROTECTION ZONE FROM WHICH THE WATER WAS RECOVERED.

34       5. THE TRANSPORTATION OF UNDERGROUND WATER OR STORED WATER BETWEEN THE  
35 EASTERN PROTECTION ZONE NORTH AND THE EASTERN PROTECTION ZONE SOUTH.

36       6. THE TRANSPORTATION OF UNDERGROUND WATER OR STORED WATER BETWEEN THE  
37 WESTERN MUNICIPAL AND INDUSTRIAL PROTECTION ZONE AND THE WESTERN MUNICIPAL  
38 PROTECTION ZONE IF THE WATER IS TRANSPORTED FOR A MUNICIPAL USE ON MUNICIPAL  
39 ACRES.

40       7. THROUGH 2023, THE TRANSPORTATION OF UNDERGROUND WATER AND STORED  
41 WATER WITHDRAWN BY A WATER COMPANY WITHIN AN EASTERN PROTECTION ZONE AND  
42 TRANSPORTED BY THE WATER COMPANY FOR MUNICIPAL USES OUTSIDE OF THE EASTERN  
43 PROTECTION ZONES. FOR THE PURPOSES OF THIS PARAGRAPH, STORED WATER DOES NOT  
44 INCLUDE ANY WATER STORED WITHIN AN EASTERN PROTECTION ZONE AND RECOVERED  
45 WITHIN THAT PROTECTION ZONE.

1           8. BEGINNING WITH CALENDAR YEAR 2024, THE ANNUAL TRANSPORTATION OF UP  
2 TO ONE THOUSAND TWO HUNDRED SEVENTY-FIVE ACRE-FEET OF UNDERGROUND WATER AND  
3 STORED WATER WITHDRAWN BY A WATER COMPANY WITHIN AN EASTERN PROTECTION ZONE  
4 AND TRANSPORTED BY THE WATER COMPANY FOR MUNICIPAL USES OUTSIDE OF THE  
5 EASTERN PROTECTION ZONES. FOR THE PURPOSES OF THIS PARAGRAPH, STORED WATER  
6 DOES NOT INCLUDE ANY WATER STORED WITHIN AN EASTERN PROTECTION ZONE AND  
7 RECOVERED WITHIN THAT PROTECTION ZONE.

8           ARTICLE 3. REPLENISHMENT OF UNDERGROUND WATER AND STORED  
9                   WATER WITHDRAWN IN EASTERN PROTECTION ZONES AND  
10                           WESTERN PROTECTION ZONES

11           45-2621. Definitions

12           IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

13           1. "AUTHORITY" MEANS THE ARIZONA WATER BANKING AUTHORITY ESTABLISHED  
14 BY SECTION 45-2421 OR ITS SUCCESSOR.

15           2. "COMMUNITY'S ACCOUNT" MEANS THE ACCOUNT ESTABLISHED FOR THE  
16 COMMUNITY IN THE SOUTHSIDE REPLENISHMENT BANK PURSUANT TO SECTION 45-2624.

17           3. "INDUSTRIAL ACRE" MEANS THE ACRE OR ACRES IN AN EASTERN PROTECTION  
18 ZONE OR IN THE WESTERN MUNICIPAL AND INDUSTRIAL PROTECTION ZONE ON WHICH  
19 WATER IS USED FOR AN INDUSTRIAL USE AND FOR WHICH THE WATER USE IS REPORTED  
20 TO THE DIRECTOR UNDER SECTION 45-632, 45-875.01 OR 45-2602.

21           4. "SOUTHSIDE REPLENISHMENT OBLIGATION" MEANS A REPLENISHMENT  
22 OBLIGATION CALCULATED UNDER SECTION 45-2622.

23           45-2622. Annual southside replenishment obligations

24           A. NO LATER THAN OCTOBER 1 OF EACH CALENDAR YEAR FOLLOWING THE YEAR IN  
25 WHICH THIS SECTION BECOMES EFFECTIVE, THE DIRECTOR SHALL CALCULATE THE  
26 SOUTHSIDE REPLENISHMENT OBLIGATIONS FOR THE PRECEDING CALENDAR YEAR AND  
27 NOTIFY THE AUTHORITY OF THE AMOUNT OF THE OBLIGATIONS.

28           B. THE DIRECTOR SHALL CALCULATE THE SOUTHSIDE REPLENISHMENT  
29 OBLIGATIONS FOR A CALENDAR YEAR AS FOLLOWS:

30           1. THE DIRECTOR SHALL CALCULATE THE MUNICIPAL AND INDUSTRIAL  
31 REPLENISHMENT OBLIGATION FOR THE WESTERN MUNICIPAL AND INDUSTRIAL PROTECTION  
32 ZONE FOR THE YEAR AS FOLLOWS:

33           (a) DETERMINE THE TOTAL AMOUNT OF UNDERGROUND WATER AND STORED WATER  
34 WITHDRAWN DURING THE YEAR FROM WITHIN THE WESTERN MUNICIPAL AND INDUSTRIAL  
35 PROTECTION ZONE FOR MUNICIPAL USES WITHIN A WESTERN PROTECTION ZONE AND THE  
36 TOTAL AMOUNT OF UNDERGROUND WATER AND STORED WATER WITHDRAWN DURING THE YEAR  
37 FROM WITHIN THE WESTERN MUNICIPAL AND INDUSTRIAL PROTECTION ZONE FOR  
38 INDUSTRIAL USES WITHIN THE WESTERN MUNICIPAL AND INDUSTRIAL PROTECTION ZONE,  
39 AS REPORTED TO THE DIRECTOR UNDER SECTIONS 45-632, 45-875.01 AND 45-2602.  
40 FOR THE PURPOSES OF THIS SUBDIVISION, STORED WATER DOES NOT INCLUDE ANY WATER  
41 STORED AT A STORAGE FACILITY LOCATED WITHIN THE WESTERN MUNICIPAL AND  
42 INDUSTRIAL PROTECTION ZONE OR ANY WATER STORED AND RECOVERED ON AN ANNUAL  
43 BASIS PURSUANT TO SECTION 45-851.01.

1 (b) DIVIDE THE VOLUME OF WATER DETERMINED IN SUBDIVISION (a) OF THIS  
2 PARAGRAPH BY THE TOTAL NUMBER OF MUNICIPAL ACRES AND INDUSTRIAL ACRES WITHIN  
3 THE WESTERN PROTECTION ZONES ON WHICH THE WATER WAS USED DURING THE YEAR.

4 (c) MULTIPLY THE TOTAL NUMBER OF MUNICIPAL ACRES AND INDUSTRIAL ACRES  
5 WITHIN THE WESTERN PROTECTION ZONES ON WHICH THE WATER DETERMINED IN  
6 SUBDIVISION (a) OF THIS PARAGRAPH WAS USED DURING THE YEAR BY TWO ACRE-FEET.

7 (d) SUBTRACT THE PRODUCT IN SUBDIVISION (c) OF THIS PARAGRAPH FROM THE  
8 QUOTIENT IN SUBDIVISION (b) OF THIS PARAGRAPH. THE RESULT IS THE MUNICIPAL  
9 AND INDUSTRIAL REPLENISHMENT OBLIGATION FOR THE WESTERN MUNICIPAL AND  
10 INDUSTRIAL PROTECTION ZONE FOR THE YEAR, EXCEPT THAT IF THE RESULT IS LESS  
11 THAN ZERO, THERE IS NO REPLENISHMENT OBLIGATION.

12 2. THE DIRECTOR SHALL CALCULATE THE MUNICIPAL REPLENISHMENT OBLIGATION  
13 FOR THE WESTERN MUNICIPAL PROTECTION ZONE FOR THE YEAR AS FOLLOWS:

14 (a) DETERMINE THE TOTAL AMOUNT OF UNDERGROUND WATER AND STORED WATER  
15 WITHDRAWN DURING THE YEAR FROM WITHIN THE WESTERN MUNICIPAL PROTECTION ZONE  
16 FOR MUNICIPAL USES WITHIN A WESTERN PROTECTION ZONE, AS REPORTED TO THE  
17 DIRECTOR UNDER SECTIONS 45-632, 45-875.01 AND 45-2602. FOR THE PURPOSES OF  
18 THIS SUBDIVISION, STORED WATER DOES NOT INCLUDE ANY WATER STORED AT A STORAGE  
19 FACILITY LOCATED WITHIN THE WESTERN MUNICIPAL PROTECTION ZONE OR ANY WATER  
20 STORED AND RECOVERED ON AN ANNUAL BASIS PURSUANT TO SECTION 45-851.01.

21 (b) DIVIDE THE VOLUME OF WATER DETERMINED IN SUBDIVISION (a) OF THIS  
22 PARAGRAPH BY THE TOTAL NUMBER OF MUNICIPAL ACRES WITHIN THE WESTERN  
23 PROTECTION ZONES ON WHICH THE WATER WAS USED DURING THE YEAR.

24 (c) MULTIPLY THE TOTAL NUMBER OF MUNICIPAL ACRES WITHIN THE WESTERN  
25 PROTECTION ZONES ON WHICH THE WATER DETERMINED IN SUBDIVISION (a) OF THIS  
26 PARAGRAPH WAS USED DURING THE YEAR BY TWO ACRE-FEET.

27 (d) SUBTRACT THE PRODUCT IN SUBDIVISION (c) OF THIS PARAGRAPH FROM THE  
28 QUOTIENT IN SUBDIVISION (b) OF THIS PARAGRAPH. THE RESULT IS THE MUNICIPAL  
29 REPLENISHMENT OBLIGATION FOR THE WESTERN MUNICIPAL PROTECTION ZONE FOR THE  
30 YEAR, EXCEPT THAT IF THE RESULT IS LESS THAN ZERO, THERE IS NO REPLENISHMENT  
31 OBLIGATION.

32 3. THE DIRECTOR SHALL CALCULATE THE MUNICIPAL AND INDUSTRIAL  
33 REPLENISHMENT OBLIGATION FOR THE EASTERN PROTECTION ZONE NORTH FOR THE YEAR  
34 AS FOLLOWS:

35 (a) DETERMINE THE TOTAL AMOUNT OF UNDERGROUND WATER AND STORED WATER  
36 WITHDRAWN DURING THE YEAR FROM WITHIN THE EASTERN PROTECTION ZONE NORTH FOR  
37 MUNICIPAL USES AND INDUSTRIAL USES WITHIN AN EASTERN PROTECTION ZONE, AS  
38 REPORTED TO THE DIRECTOR UNDER SECTIONS 45-632, 45-875.01 AND 45-2602. FOR  
39 THE PURPOSES OF THIS SUBDIVISION, STORED WATER DOES NOT INCLUDE ANY WATER  
40 STORED AT A STORAGE FACILITY LOCATED WITHIN THE EASTERN PROTECTION ZONE NORTH  
41 OR ANY WATER STORED AND RECOVERED ON AN ANNUAL BASIS PURSUANT TO SECTION  
42 45-851.01.

43 (b) DETERMINE THE TOTAL AMOUNT OF UNDERGROUND WATER AND STORED WATER  
44 WITHDRAWN DURING THE YEAR BY A WATER COMPANY FROM WITHIN THE EASTERN  
45 PROTECTION ZONE SOUTH AND USED FOR MUNICIPAL USES WITHIN THE EASTERN

1 PROTECTION ZONE NORTH. FOR THE PURPOSES OF THIS SUBDIVISION, STORED WATER  
2 DOES NOT INCLUDE ANY WATER STORED AT A STORAGE FACILITY LOCATED WITHIN THE  
3 EASTERN PROTECTION ZONE SOUTH OR ANY WATER STORED AND RECOVERED ON AN ANNUAL  
4 BASIS PURSUANT TO SECTION 45-851.01.

5 (c) ADD THE VOLUMES OF WATER IN SUBDIVISIONS (a) AND (b) OF THIS  
6 PARAGRAPH AND THEN DIVIDE THE SUM BY THE TOTAL NUMBER OF MUNICIPAL ACRES AND  
7 INDUSTRIAL ACRES WITHIN THE EASTERN PROTECTION ZONES ON WHICH THE WATER WAS  
8 USED DURING THE YEAR.

9 (d) MULTIPLY THE TOTAL NUMBER OF MUNICIPAL ACRES AND INDUSTRIAL ACRES  
10 WITHIN THE EASTERN PROTECTION ZONES ON WHICH THE WATER DETERMINED IN  
11 SUBDIVISION (c) OF THIS PARAGRAPH WAS USED DURING THE YEAR BY 2.33 ACRE-FEET.

12 (e) SUBTRACT THE PRODUCT IN SUBDIVISION (d) OF THIS PARAGRAPH FROM THE  
13 QUOTIENT IN SUBDIVISION (c) OF THIS PARAGRAPH. THE RESULT IS THE MUNICIPAL  
14 AND INDUSTRIAL REPLENISHMENT OBLIGATION FOR THE EASTERN PROTECTION ZONE NORTH  
15 FOR THE YEAR, EXCEPT THAT IF THE RESULT IS LESS THAN ZERO, THERE IS NO  
16 REPLENISHMENT OBLIGATION.

17 4. THE DIRECTOR SHALL CALCULATE THE MUNICIPAL AND INDUSTRIAL  
18 REPLENISHMENT OBLIGATION FOR THE EASTERN PROTECTION ZONE SOUTH FOR THE YEAR  
19 AS FOLLOWS:

20 (a) DETERMINE THE TOTAL AMOUNT OF UNDERGROUND WATER AND STORED WATER  
21 WITHDRAWN DURING THE YEAR FROM WITHIN THE EASTERN PROTECTION ZONE SOUTH FOR  
22 MUNICIPAL USES AND INDUSTRIAL USES WITHIN AN EASTERN PROTECTION ZONE, AS  
23 REPORTED TO THE DIRECTOR UNDER SECTIONS 45-632, 45-875.01 AND 45-2602. FOR  
24 THE PURPOSES OF THIS SUBDIVISION, STORED WATER DOES NOT INCLUDE ANY WATER  
25 STORED AT A STORAGE FACILITY LOCATED WITHIN THE EASTERN PROTECTION ZONE SOUTH  
26 OR ANY WATER STORED AND RECOVERED ON AN ANNUAL BASIS PURSUANT TO SECTION  
27 45-851.01.

28 (b) DETERMINE THE TOTAL AMOUNT OF UNDERGROUND WATER AND STORED WATER  
29 WITHDRAWN DURING THE YEAR BY A WATER COMPANY FROM WITHIN THE EASTERN  
30 PROTECTION ZONE SOUTH AND USED FOR MUNICIPAL USES WITHIN THE EASTERN  
31 PROTECTION ZONE NORTH. FOR THE PURPOSES OF THIS SUBDIVISION, STORED WATER  
32 DOES NOT INCLUDE ANY WATER STORED AT A STORAGE FACILITY LOCATED WITHIN THE  
33 EASTERN PROTECTION ZONE SOUTH OR ANY WATER STORED AND RECOVERED ON AN ANNUAL  
34 BASIS PURSUANT TO SECTION 45-851.01.

35 (c) SUBTRACT THE VOLUME IN SUBDIVISION (b) OF THIS PARAGRAPH FROM THE  
36 VOLUME IN SUBDIVISION (a) OF THIS PARAGRAPH AND THEN DIVIDE THE DIFFERENCE BY  
37 THE TOTAL NUMBER OF MUNICIPAL ACRES AND INDUSTRIAL ACRES WITHIN THE EASTERN  
38 PROTECTION ZONES ON WHICH THE WATER DETERMINED IN SUBDIVISION (a) OF THIS  
39 PARAGRAPH OTHER THAN WATER DETERMINED IN SUBDIVISION (b) OF THIS PARAGRAPH  
40 WAS USED DURING THE YEAR.

41 (d) MULTIPLY THE TOTAL NUMBER OF MUNICIPAL ACRES AND INDUSTRIAL ACRES  
42 WITHIN THE EASTERN PROTECTION ZONES ON WHICH THE WATER DETERMINED IN  
43 SUBDIVISION (a) OF THIS PARAGRAPH OTHER THAN WATER DETERMINED IN SUBDIVISION  
44 (b) OF THIS PARAGRAPH WAS USED DURING THE YEAR BY 2.33 ACRE-FEET.



1           (e) SUBTRACT THE PRODUCT IN SUBDIVISION (d) OF THIS PARAGRAPH FROM THE  
2 QUOTIENT IN SUBDIVISION (c) OF THIS PARAGRAPH. THE RESULT IS THE MUNICIPAL  
3 AND INDUSTRIAL REPLENISHMENT OBLIGATION FOR THE EASTERN PROTECTION ZONE SOUTH  
4 FOR THE YEAR, EXCEPT THAT IF THE RESULT IS LESS THAN ZERO, THERE IS NO  
5 REPLENISHMENT OBLIGATION.

6           5. THE DIRECTOR SHALL CALCULATE THE IRRIGATION REPLENISHMENT  
7 OBLIGATION FOR THE WESTERN MUNICIPAL AND INDUSTRIAL PROTECTION ZONE AND THE  
8 WESTERN MUNICIPAL PROTECTION ZONE FOR THE YEAR AS FOLLOWS:

9           (a) DETERMINE THE TOTAL AMOUNT OF UNDERGROUND WATER AND STORED WATER  
10 WITHDRAWN DURING THE YEAR FROM WITHIN THE WESTERN MUNICIPAL AND INDUSTRIAL  
11 PROTECTION ZONE AND THE WESTERN MUNICIPAL PROTECTION ZONE AND USED FOR THE  
12 IRRIGATION OF LANDS WITHIN THOSE PROTECTION ZONES, AS REPORTED TO THE  
13 DIRECTOR ON THE ANNUAL REPORTS REQUIRED BY SECTIONS 45-632, 45-875.01 AND  
14 45-2602. FOR THE PURPOSES OF THIS SUBDIVISION, STORED WATER DOES NOT INCLUDE  
15 ANY WATER STORED AT A STORAGE FACILITY LOCATED WITHIN THE WESTERN MUNICIPAL  
16 AND INDUSTRIAL PROTECTION ZONE OR THE WESTERN MUNICIPAL PROTECTION ZONE.

17           (b) FOR EACH FARM WITHIN THE WESTERN MUNICIPAL AND INDUSTRIAL  
18 PROTECTION ZONE AND THE WESTERN MUNICIPAL PROTECTION ZONE FOR WHICH AN ANNUAL  
19 REPORT IS FILED UNDER SECTION 45-632, 45-875.01 OR 45-2602 FOR THE YEAR,  
20 CALCULATE THE MAXIMUM AMOUNT OF GROUNDWATER THAT MAY BE USED ON THE FARM FOR  
21 IRRIGATION PURPOSES DURING THE YEAR WITHOUT CAUSING THE FLEXIBILITY ACCOUNT  
22 FOR THE FARM TO BE IN ARREARS IN EXCESS OF THE AMOUNT ALLOWED UNDER SECTION  
23 45-467, SUBSECTION I. IN MAKING THIS CALCULATION, THE DIRECTOR SHALL USE THE  
24 IRRIGATION WATER DUTY ESTABLISHED FOR THE FARM FOR THE THIRD MANAGEMENT  
25 PERIOD PURSUANT TO SECTION 45-566, SUBSECTION A, PARAGRAPH 1.

26           (c) ADD TOGETHER THE AMOUNT CALCULATED FOR EACH FARM UNDER  
27 SUBDIVISION (b) OF THIS PARAGRAPH.

28           (d) SUBTRACT THE AMOUNT IN SUBDIVISION (c) OF THIS PARAGRAPH FROM THE  
29 AMOUNT IN SUBDIVISION (a) OF THIS PARAGRAPH. THE DIFFERENCE IS THE  
30 IRRIGATION REPLENISHMENT OBLIGATION FOR THE YEAR FOR THE WESTERN MUNICIPAL  
31 AND INDUSTRIAL PROTECTION ZONE AND THE WESTERN MUNICIPAL PROTECTION ZONE,  
32 EXCEPT THAT IF THE DIFFERENCE IS LESS THAN ZERO, THERE IS NO REPLENISHMENT  
33 OBLIGATION.

34           6. THE DIRECTOR SHALL CALCULATE THE IRRIGATION REPLENISHMENT  
35 OBLIGATION FOR THE EASTERN PROTECTION ZONE NORTH AND THE EASTERN PROTECTION  
36 ZONE SOUTH FOR THE YEAR AS FOLLOWS:

37           (a) DETERMINE THE TOTAL AMOUNT OF UNDERGROUND WATER AND STORED WATER  
38 WITHDRAWN DURING THE YEAR FROM WITHIN THE EASTERN PROTECTION ZONE NORTH AND  
39 THE EASTERN PROTECTION ZONE SOUTH AND USED FOR THE IRRIGATION OF LANDS WITHIN  
40 THOSE PROTECTION ZONES, AS REPORTED TO THE DIRECTOR ON THE ANNUAL REPORTS  
41 REQUIRED BY SECTION 45-632, SECTION 45-875.01, SUBSECTION D AND SECTION  
42 45-2602. FOR THE PURPOSES OF THIS SUBDIVISION, STORED WATER DOES NOT INCLUDE  
43 ANY WATER STORED AT A STORAGE FACILITY LOCATED WITHIN THE EASTERN PROTECTION  
44 ZONE NORTH OR THE EASTERN PROTECTION ZONE SOUTH.

1 (b) FOR EACH FARM WITHIN THE EASTERN PROTECTION ZONE NORTH AND THE  
2 EASTERN PROTECTION ZONE SOUTH FOR WHICH AN ANNUAL REPORT IS FILED UNDER  
3 SECTION 45-632, 45-875.01 OR 45-2602 FOR THE YEAR, CALCULATE THE MAXIMUM  
4 AMOUNT OF GROUNDWATER THAT MAY BE USED ON THE FARM FOR IRRIGATION PURPOSES  
5 DURING THE YEAR WITHOUT CAUSING THE FLEXIBILITY ACCOUNT FOR THE FARM TO BE IN  
6 ARREARS IN EXCESS OF THE AMOUNT ALLOWED UNDER SECTION 45-467, SUBSECTION  
7 I. IN MAKING THIS CALCULATION, THE DIRECTOR SHALL USE THE IRRIGATION WATER  
8 DUTY ESTABLISHED FOR THE FARM FOR THE THIRD MANAGEMENT PERIOD PURSUANT TO  
9 SECTION 45-566, SUBSECTION A, PARAGRAPH 1.

10 (c) ADD TOGETHER THE AMOUNT CALCULATED FOR EACH FARM UNDER  
11 SUBDIVISION (b) OF THIS PARAGRAPH.

12 (d) SUBTRACT THE AMOUNT IN SUBDIVISION (c) OF THIS PARAGRAPH FROM THE  
13 AMOUNT IN SUBDIVISION (a) OF THIS PARAGRAPH. THE DIFFERENCE IS THE  
14 IRRIGATION REPLENISHMENT OBLIGATION FOR THE YEAR FOR THE EASTERN PROTECTION  
15 ZONE NORTH AND THE EASTERN PROTECTION ZONE SOUTH, EXCEPT THAT IF THE  
16 DIFFERENCE IS LESS THAN ZERO, THERE IS NO REPLENISHMENT OBLIGATION.

17 7. THROUGH 2023, THE DIRECTOR SHALL CALCULATE THE WATER COMPANY  
18 REPLENISHMENT OBLIGATION FOR THE YEAR BY DETERMINING THE AMOUNT OF  
19 UNDERGROUND WATER AND STORED WATER WITHDRAWN DURING THE YEAR FROM WITHIN AN  
20 EASTERN PROTECTION ZONE BY A WATER COMPANY AND TRANSPORTED FOR MUNICIPAL USES  
21 OUTSIDE OF THE EASTERN PROTECTION ZONES AND THEN SUBTRACTING FROM THAT AMOUNT  
22 ONE THOUSAND TWO HUNDRED SEVENTY-FIVE ACRE-FEET. THE DIFFERENCE IS THE WATER  
23 COMPANY REPLENISHMENT OBLIGATION FOR THE YEAR, EXCEPT THAT IF THE DIFFERENCE  
24 IS LESS THAN ZERO, THERE IS NO REPLENISHMENT OBLIGATION. FOR THE PURPOSES OF  
25 THIS PARAGRAPH, STORED WATER DOES NOT INCLUDE ANY WATER STORED AT A STORAGE  
26 FACILITY LOCATED WITHIN AN EASTERN PROTECTION ZONE AND RECOVERED WITHIN THAT  
27 PROTECTION ZONE.

28 45-2623. Satisfaction of southside replenishment obligations

29 A. THE AUTHORITY SHALL SATISFY THE SOUTHSIDE REPLENISHMENT OBLIGATIONS  
30 FOR A PARTICULAR YEAR NO LATER THAN JUNE 1 OF THE THIRD CALENDAR YEAR  
31 FOLLOWING THAT YEAR, EXCEPT THAT THE AUTHORITY SHALL SATISFY THE IRRIGATION  
32 REPLENISHMENT OBLIGATIONS DESCRIBED IN SECTION 45-2622, SUBSECTION B,  
33 PARAGRAPHS 5 AND 6 FOR A PARTICULAR YEAR NO LATER THAN JUNE 1 OF THE FIFTH  
34 CALENDAR YEAR AFTER THAT YEAR.

35 B. A SOUTHSIDE REPLENISHMENT OBLIGATION FOR A YEAR IS SATISFIED WHEN  
36 THE AUTHORITY PERFORMS ONE OR MORE OF THE REPLENISHMENT ACTIVITIES DESCRIBED  
37 IN SUBSECTION C OF THIS SECTION IN AN AMOUNT EQUAL TO THE REPLENISHMENT  
38 OBLIGATION.

39 C. THE AUTHORITY SHALL SATISFY A SOUTHSIDE REPLENISHMENT OBLIGATION  
40 FOR A YEAR BY PERFORMING ONE OR MORE OF THE FOLLOWING REPLENISHMENT  
41 ACTIVITIES, AS APPLICABLE:

42 1. FOR ANY REPLENISHMENT OBLIGATION, THE AUTHORITY MAY DELIVER WATER  
43 ACQUIRED BY THE AUTHORITY UNDER CHAPTER 14 OF THIS TITLE TO THE COMMUNITY FOR  
44 DIRECT USE OR FOR UNDERGROUND STORAGE AND RECOVERY WITHIN THE RESERVATION.  
45 THE AUTHORITY SHALL NOT DELIVER WATER TO THE COMMUNITY UNDER THIS PARAGRAPH

1 UNLESS THE COMMUNITY AGREES IN WRITING TO ACCEPT THE WATER AND SPECIFIES IN  
2 WRITING THE LOCATIONS, TIMES AND QUANTITIES OF THE DELIVERIES.

3 2. FOR A REPLENISHMENT OBLIGATION APPLICABLE TO THE WESTERN MUNICIPAL  
4 AND INDUSTRIAL PROTECTION ZONE OR THE WESTERN MUNICIPAL PROTECTION ZONE, THE  
5 AUTHORITY MAY EXTINGUISH LONG-TERM STORAGE CREDITS EARNED OR ACQUIRED BY THE  
6 AUTHORITY UNDER CHAPTER 3.1 OF THIS TITLE, AS AUTHORIZED BY CHAPTER 14 OF  
7 THIS TITLE, AND TO WHICH BOTH OF THE FOLLOWING APPLY:

8 (a) THE CREDITS WERE EARNED WITHIN FIVE YEARS BEFORE THE DATE THE  
9 CREDITS ARE EXTINGUISHED.

10 (b) THE CREDITS WERE EARNED FOR THE STORAGE OF WATER IN THE WESTERN  
11 MUNICIPAL AND INDUSTRIAL PROTECTION ZONE OR THE WESTERN MUNICIPAL PROTECTION  
12 ZONE.

13 3. FOR A REPLENISHMENT OBLIGATION APPLICABLE TO THE EASTERN PROTECTION  
14 ZONE NORTH OR THE EASTERN PROTECTION ZONE SOUTH, THE AUTHORITY MAY EXTINGUISH  
15 LONG-TERM STORAGE CREDITS EARNED OR ACQUIRED BY THE AUTHORITY UNDER CHAPTER  
16 3.1 OF THIS TITLE, AS AUTHORIZED UNDER CHAPTER 14 OF THIS TITLE, AND TO WHICH  
17 BOTH OF THE FOLLOWING APPLY:

18 (a) THE CREDITS WERE EARNED WITHIN SEVEN YEARS BEFORE THE DATE THE  
19 CREDITS ARE EXTINGUISHED.

20 (b) THE CREDITS WERE EARNED FOR THE STORAGE OF WATER IN THE EASTERN  
21 PROTECTION ZONE NORTH OR THE EASTERN PROTECTION ZONE SOUTH.

22 4. FOR ANY REPLENISHMENT OBLIGATION, THE AUTHORITY MAY DEBIT THE  
23 COMMUNITY'S ACCOUNT IN THE SOUTHSIDE REPLENISHMENT BANK ESTABLISHED UNDER  
24 SECTION 45-2624 IN AN AMOUNT NOT TO EXCEED THE AMOUNT OF WATER IN THE  
25 ACCOUNT.

26 D. THE AUTHORITY SHALL MAINTAIN IN ITS RECORDS AN ACCOUNT OF THE  
27 REPLENISHMENT ACTIVITIES PERFORMED BY THE AUTHORITY TO SATISFY A SOUTHSIDE  
28 REPLENISHMENT OBLIGATION. ANY WATER DELIVERED TO THE COMMUNITY UNDER  
29 SUBSECTION C, PARAGRAPH 1 OF THIS SECTION, ANY LONG-TERM STORAGE CREDITS  
30 EXTINGUISHED UNDER SUBSECTION C, PARAGRAPHS 2 AND 3 OF THIS SECTION AND ANY  
31 DEBITS REGISTERED TO THE SOUTHSIDE REPLENISHMENT BANK UNDER SUBSECTION C,  
32 PARAGRAPH 4 OF THIS SECTION SHALL BE APPLIED TOWARD THE SATISFACTION OF A  
33 REPLENISHMENT OBLIGATION ON AN ACRE-FOOT PER ACRE-FOOT BASIS.

34 E. AFTER THE AUTHORITY PERFORMS A REPLENISHMENT ACTIVITY UNDER  
35 SUBSECTION C OF THIS SECTION, THE AUTHORITY SHALL NOTIFY THE COMMUNITY THAT  
36 THE REPLENISHMENT ACTIVITY HAS BEEN PERFORMED AND IDENTIFY THE REPLENISHMENT  
37 OBLIGATION FOR WHICH THE ACTIVITY WAS PERFORMED.

38 45-2624. Southside replenishment bank; credits

39 A. THE SOUTHSIDE REPLENISHMENT BANK IS ESTABLISHED AS A SEPARATE BANK  
40 IN THE RECORDS OF THE AUTHORITY. THE AUTHORITY SHALL ESTABLISH AN ACCOUNT IN  
41 THE SOUTHSIDE REPLENISHMENT BANK FOR THE COMMUNITY.

42 B. BEGINNING WITH THE FIRST CALENDAR YEAR IN WHICH THIS SECTION  
43 BECOMES EFFECTIVE, THE AUTHORITY SHALL ANNUALLY DELIVER TO THE COMMUNITY IN  
44 THE MANNER PROVIDED IN SUBSECTION D OF THIS SECTION, AND AT NO COST TO THE  
45 COMMUNITY, NOT LESS THAN ONE THOUSAND ACRE-FEET OF WATER ACQUIRED BY THE

1 AUTHORITY UNDER CHAPTER 14 OF THIS TITLE UNTIL THE COMMUNITY'S ACCOUNT HAS A  
2 CREDIT BALANCE OF FIFTEEN THOUSAND ACRE-FEET. THE AUTHORITY SHALL REGISTER  
3 ONE CREDIT TO THE COMMUNITY'S ACCOUNT FOR EACH ACRE-FOOT OF WATER DELIVERED  
4 TO THE COMMUNITY UNDER THIS SUBSECTION.

5 C. IF ANY DEBIT REGISTERED TO THE SOUTHSIDE REPLENISHMENT BANK UNDER  
6 SECTION 45-2623, SUBSECTION C, PARAGRAPH 4 CAUSES THE COMMUNITY'S ACCOUNT TO  
7 HAVE A CREDIT BALANCE OF LESS THAN FIVE THOUSAND ACRE-FEET, THE AUTHORITY  
8 SHALL DELIVER WATER TO THE COMMUNITY IN THE MANNER PROVIDED IN SUBSECTION D  
9 OF THIS SECTION IN AN AMOUNT SUFFICIENT TO BRING THE BALANCE UP TO AT LEAST  
10 FIVE THOUSAND ACRE-FEET BY THE END OF THE CALENDAR YEAR.

11 D. THE AUTHORITY SHALL ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH  
12 THE COMMUNITY PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3, WHICH SHALL  
13 DESCRIBE IN DETAIL THE PROCEDURES FOR THE DELIVERY OF WATER TO THE COMMUNITY  
14 UNDER THIS SECTION, INCLUDING THE METHOD BY WHICH THE COMMUNITY WILL SCHEDULE  
15 AND ORDER WATER THAT THE AUTHORITY IS REQUIRED TO DELIVER TO THE COMMUNITY  
16 UNDER SUBSECTIONS B AND C OF THIS SECTION. THE PROCEDURES SHALL NOT REQUIRE  
17 THE AUTHORITY TO DELIVER IN ANY MONTH MORE THAN ELEVEN PER CENT OF THE WATER  
18 REQUIRED TO BE DELIVERED DURING A YEAR UNDER SUBSECTION B OF THIS SECTION.

19 45-2625. Replenishment related to transportation of underground  
20 water or stored water away from an eastern  
21 protection zone or a western protection zone for  
22 nonirrigation use

23 IF A PERSON TRANSPORTING UNDERGROUND WATER OR STORED WATER AWAY FROM AN  
24 EASTERN PROTECTION ZONE OR A WESTERN PROTECTION ZONE FOR A NONIRRIGATION USE  
25 ELECTS TO REPLENISH THE UNDERGROUND WATER OR STORED WATER SO THAT THE  
26 TRANSPORTATION QUALIFIES AS AN AUTHORIZED TRANSPORTATION UNDER SECTION  
27 45-2611, SUBSECTION B, PARAGRAPH 2, THE PERSON SHALL REPLENISH THE WATER BY  
28 PERFORMING ONE OR BOTH OF THE FOLLOWING REPLENISHMENT ACTIVITIES IN AN AMOUNT  
29 EQUIVALENT TO THE AMOUNT OF WATER TRANSPORTED:

30 1. PAY THE AUTHORITY AN AMOUNT OF MONEY SUFFICIENT TO ALLOW THE  
31 AUTHORITY TO CREDIT THE COMMUNITY'S ACCOUNT BY DELIVERING WATER TO THE  
32 COMMUNITY IN ACCORDANCE WITH THE DELIVERY PROCEDURES SET FORTH IN THE  
33 INTERGOVERNMENTAL AGREEMENT DESCRIBED IN SECTION 45-2624, SUBSECTION D. ANY  
34 CREDITS REGISTERED TO THE COMMUNITY'S ACCOUNT UNDER THIS PARAGRAPH SHALL NOT  
35 BE USED TO MEET THE AUTHORITY'S REQUIREMENT TO DELIVER WATER TO THE COMMUNITY  
36 UNDER SECTION 45-2624, SUBSECTION B OR C.

37 2. REPLENISH WATER IN ANY MANNER THAT IS APPROVED IN WRITING BY THE  
38 COMMUNITY AND THAT IS NOT PROHIBITED UNDER THIS TITLE.

39 45-2626. Individual replenishment obligations of persons using  
40 underground water or stored water within an eastern  
41 protection zone or a western protection zone for  
42 industrial use; enforcement action; notice

43 A. IF THERE IS A MUNICIPAL AND INDUSTRIAL REPLENISHMENT OBLIGATION FOR  
44 THE EASTERN PROTECTION ZONE NORTH FOR ANY YEAR, AS CALCULATED UNDER SECTION  
45 45-2622, SUBSECTION B, ANY PERSON WHO WITHDRAWS UNDERGROUND WATER OR STORED

1 WATER FROM WITHIN THAT PROTECTION ZONE DURING THE YEAR FOR AN INDUSTRIAL USE  
2 WITHIN AN EASTERN PROTECTION ZONE IN AN AMOUNT THAT EXCEEDS A VOLUME  
3 CALCULATED BY MULTIPLYING THE NUMBER OF INDUSTRIAL ACRES ASSOCIATED WITH THE  
4 INDUSTRIAL USE BY THREE AND ONE-HALF ACRE-FEET SHALL HAVE AN INDIVIDUAL  
5 REPLENISHMENT OBLIGATION FOR THAT YEAR IN THE AMOUNT OF THE EXCESS, EXCEPT  
6 THAT IF THE INDUSTRIAL USE WAS COMMENCED PRIOR TO JANUARY 1, 2003, THE  
7 REPLENISHMENT OBLIGATION SHALL BE LIMITED TO THE VOLUME OF GROUNDWATER  
8 WITHDRAWN IN EXCESS OF THE AMOUNT ALLOWED UNDER THE INDUSTRIAL USER'S TYPE 1  
9 NONIRRIGATION GRANDFATHERED RIGHT, TYPE 2 NONIRRIGATION GRANDFATHERED RIGHT  
10 OR GENERAL INDUSTRIAL USE PERMIT ISSUED UNDER SECTION 45-515. FOR THE  
11 PURPOSES OF THIS SUBSECTION, STORED WATER DOES NOT INCLUDE ANY WATER STORED  
12 AT A STORAGE FACILITY LOCATED WITHIN THE EASTERN PROTECTION ZONE NORTH OR ANY  
13 WATER STORED AND RECOVERED ON AN ANNUAL BASIS PURSUANT TO SECTION 45-851.01.

14 B. IF THERE IS A MUNICIPAL AND INDUSTRIAL REPLENISHMENT OBLIGATION FOR  
15 THE EASTERN PROTECTION ZONE SOUTH FOR ANY YEAR, AS CALCULATED UNDER SECTION  
16 45-2622, SUBSECTION B, ANY PERSON WHO WITHDRAWS UNDERGROUND WATER OR STORED  
17 WATER FROM WITHIN THAT PROTECTION ZONE DURING THE YEAR FOR AN INDUSTRIAL USE  
18 WITHIN AN EASTERN PROTECTION ZONE IN AN AMOUNT THAT EXCEEDS A VOLUME  
19 CALCULATED BY MULTIPLYING THE NUMBER OF INDUSTRIAL ACRES ASSOCIATED WITH THE  
20 INDUSTRIAL USE BY THREE AND ONE-HALF ACRE-FEET SHALL HAVE AN INDIVIDUAL  
21 REPLENISHMENT OBLIGATION FOR THAT YEAR IN THE AMOUNT OF THE EXCESS, EXCEPT  
22 THAT IF THE INDUSTRIAL USE WAS COMMENCED PRIOR TO JANUARY 1, 2003, THE  
23 REPLENISHMENT OBLIGATION SHALL BE LIMITED TO THE VOLUME OF GROUNDWATER  
24 WITHDRAWN IN EXCESS OF THE AMOUNT ALLOWED UNDER THE INDUSTRIAL USER'S TYPE 1  
25 NONIRRIGATION GRANDFATHERED RIGHT, TYPE 2 NONIRRIGATION GRANDFATHERED RIGHT  
26 OR GENERAL INDUSTRIAL USE PERMIT ISSUED UNDER SECTION 45-515. FOR THE  
27 PURPOSES OF THIS SUBSECTION, STORED WATER DOES NOT INCLUDE ANY WATER STORED  
28 AT A STORAGE FACILITY LOCATED WITHIN THE EASTERN PROTECTION ZONE SOUTH OR ANY  
29 WATER STORED AND RECOVERED ON AN ANNUAL BASIS PURSUANT TO SECTION 45-851.01.

30 C. IF THERE IS A MUNICIPAL AND INDUSTRIAL REPLENISHMENT OBLIGATION FOR  
31 THE WESTERN MUNICIPAL AND INDUSTRIAL PROTECTION ZONE FOR ANY YEAR, AS  
32 CALCULATED UNDER SECTION 45-2622, SUBSECTION B, ANY PERSON WHO WITHDRAWS  
33 UNDERGROUND WATER OR STORED WATER FROM WITHIN THAT PROTECTION ZONE DURING THE  
34 YEAR FOR AN INDUSTRIAL USE WITHIN THAT PROTECTION ZONE IN AN AMOUNT THAT  
35 EXCEEDS A VOLUME CALCULATED BY MULTIPLYING THE NUMBER OF INDUSTRIAL ACRES  
36 ASSOCIATED WITH THE INDUSTRIAL USE BY THREE AND ONE-HALF ACRE-FEET SHALL HAVE  
37 AN INDIVIDUAL REPLENISHMENT OBLIGATION FOR THAT YEAR IN THE AMOUNT OF THE  
38 EXCESS, EXCEPT THAT IF THE INDUSTRIAL USE WAS COMMENCED PRIOR TO JANUARY 1,  
39 2003, THE REPLENISHMENT OBLIGATION SHALL BE LIMITED TO THE VOLUME OF  
40 GROUNDWATER WITHDRAWN IN EXCESS OF THE AMOUNT ALLOWED UNDER THE INDUSTRIAL  
41 USER'S TYPE 1 NONIRRIGATION GRANDFATHERED RIGHT, TYPE 2 NONIRRIGATION  
42 GRANDFATHERED RIGHT OR GENERAL INDUSTRIAL USE PERMIT ISSUED UNDER SECTION  
43 45-515. FOR THE PURPOSES OF THIS SUBSECTION, STORED WATER DOES NOT INCLUDE  
44 ANY WATER STORED AT A STORAGE FACILITY LOCATED WITHIN THE WESTERN MUNICIPAL

1 AND INDUSTRIAL PROTECTION ZONE OR ANY WATER STORED AND RECOVERED ON AN ANNUAL  
2 BASIS PURSUANT TO SECTION 45-851.01.

3 D. A PERSON WHO HAS AN INDIVIDUAL REPLENISHMENT OBLIGATION UNDER  
4 SUBSECTION A, B OR C OF THIS SECTION SHALL SATISFY THE OBLIGATION NO LATER  
5 THAN TWELVE MONTHS AFTER THE AUTHORITY SENDS WRITTEN NOTICE OF THE OBLIGATION  
6 TO THE PERSON AS PROVIDED IN SUBSECTION E OF THIS SECTION. THE PERSON SHALL  
7 SATISFY THE OBLIGATION BY PERFORMING ONE OF THE FOLLOWING REPLENISHMENT  
8 ACTIVITIES IN AN AMOUNT EQUIVALENT TO THE REPLENISHMENT OBLIGATION:

9 1. PAY THE AUTHORITY THE ACTUAL OR ESTIMATED COST OF REPLENISHING THE  
10 WATER UNDER SECTION 45-2623, SUBSECTION C AS DETERMINED BY THE AUTHORITY AND  
11 INCLUDED IN THE NOTICE DESCRIBED IN SUBSECTION E OF THIS SECTION.

12 2. IF APPROVED BY THE AUTHORITY, DELIVER WATER OR LONG-TERM STORAGE  
13 CREDITS TO THE AUTHORITY IN THE AMOUNT OF THE REPLENISHMENT OBLIGATION.

14 E. NO LATER THAN DECEMBER 31 OF EACH YEAR, THE AUTHORITY SHALL SEND  
15 WRITTEN NOTICE TO EACH PERSON WHO HAS AN INDIVIDUAL REPLENISHMENT OBLIGATION  
16 FOR THE PRECEDING YEAR. THE NOTICE SHALL BE SENT BY FIRST-CLASS MAIL TO THE  
17 PERSON'S MAILING ADDRESS ON FILE WITH THE DEPARTMENT. THE NOTICE SHALL  
18 SPECIFY THE AMOUNT OF THE REPLENISHMENT OBLIGATION, THE AUTHORITY'S ACTUAL OR  
19 ESTIMATED COST OF REPLENISHING THE WATER UNDER SECTION 45-2623, SUBSECTION C,  
20 THE DATE BY WHICH THE PERSON MUST SATISFY THE REPLENISHMENT OBLIGATION AND  
21 THE MANNER IN WHICH THE PERSON MAY SATISFY THE REPLENISHMENT OBLIGATION.

22 F. IF A PERSON WITH AN INDIVIDUAL REPLENISHMENT OBLIGATION FAILS TO  
23 SATISFY THE REPLENISHMENT OBLIGATION BY THE DATE SPECIFIED IN THE WRITTEN  
24 NOTICE RECEIVED FROM THE AUTHORITY, THE PERSON SHALL BE SUBJECT TO AN  
25 ENFORCEMENT ACTION BY THE DEPARTMENT PURSUANT TO ARTICLE 6 OF THIS CHAPTER.

26 G. THE DIRECTOR SHALL INCLUDE WRITTEN NOTICE OF THE REQUIREMENTS OF  
27 THIS SECTION IN ANY GROUNDWATER WITHDRAWAL PERMIT, NONIRRIGATION  
28 GRANDFATHERED RIGHT AUTHORIZATION TO DRILL A NONEXEMPT WELL UNDER SECTION  
29 45-596 OR RECOVERY WELL PERMIT ISSUED IN AN EASTERN PROTECTION ZONE OR THE  
30 WESTERN MUNICIPAL AND INDUSTRIAL PROTECTION ZONE AFTER THE EFFECTIVE DATE OF  
31 THIS SECTION.

#### 32 ARTICLE 6. ENFORCEMENT

##### 33 45-2651. Inspections, investigations and audits

34 A. THE DIRECTOR OR THE DIRECTOR'S AUTHORIZED REPRESENTATIVE MAY ENTER,  
35 AT REASONABLE TIMES, PRIVATE OR PUBLIC PROPERTY AND THE OWNER, MANAGER OR  
36 OCCUPANT OF THE PROPERTY SHALL PERMIT THE ENTRY TO ASCERTAIN COMPLIANCE WITH  
37 THIS CHAPTER.

38 B. INSPECTIONS AND INVESTIGATIONS UNDER SUBSECTION A SHALL BE ON  
39 REASONABLE NOTICE TO THE OWNER, MANAGER OR OCCUPANT OF THE PROPERTY UNLESS  
40 REASONABLE GROUNDS EXIST TO BELIEVE THAT SUCH NOTICE WOULD FRUSTRATE THE  
41 ENFORCEMENT OF THIS CHAPTER. THE DIRECTOR MAY APPLY FOR AND OBTAIN WARRANTS.  
42 IF WARRANTS ARE REQUIRED BY LAW, THE DIRECTOR SHALL APPLY FOR AND OBTAIN  
43 WARRANTS FOR ENTRY AND INSPECTION TO CARRY OUT THE ADMINISTRATIVE AND  
44 ENFORCEMENT PURPOSES OF THIS ARTICLE.

1 C. THE DIRECTOR SHALL PROVIDE A WRITTEN REPORT OF EACH INSPECTION,  
2 INVESTIGATION AND AUDIT UNDER THIS SECTION TO THE PERSON WHO IS SUBJECT TO  
3 THE ACTION.

4 45-2652. Cease and desist order; hearing; injunctive relief

5 A. IF THE DIRECTOR HAS REASON TO BELIEVE THAT A PERSON IS VIOLATING OR  
6 HAS VIOLATED THIS CHAPTER OR AN ORDER ISSUED PURSUANT TO THIS CHAPTER, THE  
7 DIRECTOR MAY GIVE THE PERSON WRITTEN NOTICE THAT THE PERSON MAY APPEAR AND  
8 SHOW CAUSE AT AN ADMINISTRATIVE HEARING IN THE COUNTY IN WHICH THE VIOLATION  
9 IS ALLEGED TO HAVE OCCURRED WHY THE PERSON SHOULD NOT BE ORDERED TO CEASE AND  
10 DESIST FROM THE VIOLATION.

11 B. THE DECISION AND ORDER OF THE DIRECTOR UNDER THIS SECTION MAY TAKE  
12 SUCH FORM AS THE DIRECTOR DETERMINES TO BE REASONABLE AND APPROPRIATE AND MAY  
13 INCLUDE A DETERMINATION OF VIOLATION, A CEASE AND DESIST ORDER, THE  
14 RECOMMENDATION OF A CIVIL PENALTY AND AN ORDER DIRECTING THAT POSITIVE STEPS  
15 BE TAKEN TO ABATE OR AMELIORATE ANY HARM OR DAMAGE ARISING FROM THE  
16 VIOLATION. THE PERSON AFFECTED MAY SEEK JUDICIAL REVIEW OF THE FINAL  
17 DECISION OF THE DIRECTOR AS PROVIDED IN SECTION 45-114, SUBSECTION B IN THE  
18 SUPERIOR COURT IN THE COUNTY IN WHICH THE VIOLATION IS ALLEGED TO HAVE  
19 OCCURRED.

20 C. IF THE PERSON CONTINUES THE VIOLATION AFTER THE DIRECTOR HAS ISSUED  
21 A FINAL DECISION AND ORDER PURSUANT TO SUBSECTION B OF THIS SECTION, THE  
22 DIRECTOR MAY APPLY FOR A TEMPORARY RESTRAINING ORDER OR PRELIMINARY OR  
23 PERMANENT INJUNCTION FROM THE SUPERIOR COURT IN THE COUNTY IN WHICH THE  
24 VIOLATION IS ALLEGED TO HAVE OCCURRED ACCORDING TO THE ARIZONA RULES OF CIVIL  
25 PROCEDURE. A DECISION TO SEEK INJUNCTIVE RELIEF DOES NOT PRECLUDE OTHER  
26 FORMS OF RELIEF OR ENFORCEMENT AGAINST THE VIOLATOR.

27 D. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE  
28 PROCEEDINGS, REHEARING OR REVIEW AND JUDICIAL REVIEW OF FINAL DECISIONS OF  
29 THE DIRECTOR UNDER THIS SECTION.

30 45-2653. Violation; civil penalties

31 A. A PERSON WHO IS DETERMINED PURSUANT TO SECTION 45-2652 TO BE IN  
32 VIOLATION OF THIS CHAPTER OR AN ORDER ISSUED PURSUANT TO THIS CHAPTER MAY BE  
33 ASSESSED A CIVIL PENALTY IN AN AMOUNT NOT EXCEEDING ONE THOUSAND DOLLARS PER  
34 DAY OF VIOLATION.

35 B. AN ACTION TO RECOVER PENALTIES UNDER THIS SECTION SHALL BE BROUGHT  
36 BY THE DIRECTOR IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE VIOLATION  
37 OCCURRED.

38 C. IN DETERMINING THE AMOUNT OF THE PENALTY, THE COURT SHALL CONSIDER  
39 THE DEGREE OF HARM CAUSED BY THE VIOLATION, WHETHER THE VIOLATION WAS KNOWING  
40 OR WILFULL, THE PAST CONDUCT OF THE DEFENDANT, WHETHER THE DEFENDANT SHOULD  
41 HAVE BEEN ON NOTICE OF THE VIOLATION, WHETHER THE DEFENDANT HAS TAKEN STEPS  
42 TO CEASE, REMOVE OR MITIGATE THE VIOLATION AND ANY OTHER RELEVANT  
43 INFORMATION.

44 D. ALL CIVIL PENALTIES ASSESSED PURSUANT TO THIS SECTION SHALL BE  
45 DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE STATE GENERAL FUND.

1       45-2654. Violation; classification

2       UNLESS OTHERWISE PROVIDED, A PERSON WHO KNOWINGLY VIOLATES OR REFUSES  
3 TO COMPLY WITH THIS CHAPTER OR AN ORDER ISSUED PURSUANT TO THIS CHAPTER IS  
4 GUILTY OF A CLASS 2 MISDEMEANOR. A PERSON WHO, AFTER NOTICE OF A VIOLATION,  
5 CONTINUES IN VIOLATION OF THIS CHAPTER OR AN ORDER ISSUED PURSUANT TO THIS  
6 CHAPTER IS GUILTY OF A SEPARATE OFFENSE FOR EACH DAY OF VIOLATION.

7       Sec. 10. Title 45, Arizona Revised Statutes, is amended by adding  
8 chapter 16, to read:

9                               CHAPTER 16

10                      TOHONO O'ODHAM WATER SETTLEMENT PROGRAM

11                               ARTICLE 1. GENERAL PROVISIONS

12       45-2701. Definitions

13       UNLESS THE CONTEXT OTHERWISE REQUIRES, THE TERMS DEFINED IN SECTIONS  
14 45-402 AND 45-802.01 HAVE THE SAME MEANING IN THIS CHAPTER AND FOR THE  
15 PURPOSES OF THIS CHAPTER:

16       1. "EXEMPT WELL" MEANS A WELL THAT QUALIFIES AS AN EXEMPT WELL UNDER  
17 SECTION 45-454 IN EFFECT ON JANUARY 1, 2005.

18       2. "NATION" MEANS THE TOHONO O'ODHAM NATION ORGANIZED UNDER A  
19 CONSTITUTION APPROVED IN ACCORDANCE WITH SECTION 16 OF THE ACT OF JUNE 18,  
20 1934 (25 UNITED STATES CODE SECTION 476).

21       3. "NONEXEMPT WELL" MEANS ANY WELL, INCLUDING A RECOVERY WELL, THAT  
22 DOES NOT QUALIFY AS AN EXEMPT WELL OR A REPLACEMENT WELL.

23       4. "REPLACEMENT WELL" MEANS A WELL THAT QUALIFIES AS A REPLACEMENT  
24 WELL AT APPROXIMATELY THE SAME LOCATION UNDER THE RULES ADOPTED BY THE  
25 DIRECTOR PURSUANT TO SECTION 45-579, SUBSECTION B AND THAT IS NO MORE THAN  
26 SIX HUNDRED SIXTY FEET FROM THE WELL IT IS REPLACING.

27       5. "RESERVATION" MEANS THE SAN XAVIER INDIAN RESERVATION ESTABLISHED  
28 BY EXECUTIVE ORDER OF JULY 1, 1874.

29       6. "TOHONO O'ODHAM SETTLEMENT AGREEMENT" MEANS THE AGREEMENT DATED  
30 APRIL 30, 2003 BETWEEN THE NATION, THIS STATE AND OTHER PARTIES, AS AMENDED  
31 BEFORE THE EFFECTIVE DATE OF THIS SECTION, A COPY OF WHICH IS ON FILE IN THE  
32 DEPARTMENT.

33       45-2702. Jurisdiction

34       THE SUPERIOR COURT THAT HAS JURISDICTION OVER THE GENERAL ADJUDICATION  
35 OF ALL RIGHTS TO USE WATER IN THE GILA RIVER SYSTEM AND SOURCE HAS  
36 JURISDICTION OVER ALL CIVIL ACTIONS RELATING TO THE INTERPRETATION AND  
37 ENFORCEMENT OF ALL OF THE FOLLOWING:

38       1. TITLE III OF THE ARIZONA WATER SETTLEMENTS ACT (P.L. 108-451),  
39 INCLUDING SECTIONS 312(d) AND 312(h).

40       2. THE TOHONO O'ODHAM SETTLEMENT AGREEMENT.

41       3. THE GROUNDWATER PROTECTION PROGRAM ESTABLISHED PURSUANT TO ARTICLE  
42 2 OF THIS CHAPTER.



ARTICLE 2. SAN XAVIER RESERVATION WATER PROTECTION PROGRAM  
45-2711. Applications to drill nonexempt wells in the Tucson  
active management area; well impact analysis;  
requirements; exception

A. EXCEPT AS PROVIDED IN SUBSECTIONS B AND E OF THIS SECTION, IN THE TUCSON ACTIVE MANAGEMENT AREA, ON RECEIPT OF AN APPLICATION TO DRILL A NEW NONEXEMPT WELL, INCLUDING A NOTICE OF INTENTION TO DRILL A NEW NONEXEMPT WELL UNDER SECTION 45-596, THE DIRECTOR SHALL CONDUCT A HYDROLOGIC ANALYSIS TO DETERMINE THE PROJECTED IMPACTS OF THE PROPOSED WITHDRAWALS FROM THE WELL ON THE WATER LEVELS AT THE EXTERIOR BOUNDARIES OF THE RESERVATION. THE DIRECTOR SHALL CONDUCT THE ANALYSIS USING THE METHODOLOGY USED BY THE DIRECTOR TO DETERMINE WELL IMPACTS UNDER THE RULES ADOPTED BY THE DIRECTOR UNDER SECTION 45-598. IF THE DIRECTOR DETERMINES THAT THE PROJECTED WITHDRAWALS FROM THE WELL OVER THE INITIAL FIVE-YEAR PERIOD OF WITHDRAWALS WILL CAUSE A WATER LEVEL DECLINE OF TEN FEET OR MORE AT ANY POINT ON THE EXTERIOR BOUNDARIES OF THE RESERVATION, THE DIRECTOR SHALL DENY THE APPLICATION UNLESS THE APPLICANT OBTAINS AND SUBMITS TO THE DIRECTOR THE NATION'S WRITTEN CONSENT TO DRILL THE WELL.

B. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION, IF THE DIRECTOR RECEIVES AN APPLICATION TO DRILL A NEW NONEXEMPT WELL, INCLUDING A NOTICE OF INTENTION TO DRILL A NEW NONEXEMPT WELL UNDER SECTION 45-596, AT A LOCATION WITHIN TWO MILES OF THE EXTERIOR BOUNDARIES OF THE RESERVATION AND THE COMBINED MAXIMUM PUMPING CAPACITY OF ALL PROPOSED WELLS INCLUDED IN THE APPLICATION THAT WILL BE LOCATED WITHIN TWO MILES OF THE EXTERIOR BOUNDARIES OF THE RESERVATION IS FIVE HUNDRED GALLONS PER MINUTE OR MORE, THE DIRECTOR SHALL DENY THE APPLICATION TO DRILL THE WELL UNLESS THE APPLICANT SUBMITS ONE OF THE FOLLOWING TO THE DIRECTOR:

1. A HYDROLOGIC STUDY DEMONSTRATING TO THE DIRECTOR'S SATISFACTION BOTH OF THE FOLLOWING:

(a) THAT THE WATER LEVEL AT THE PROPOSED WELL SITE IS DECLINING AT LESS THAN AN AVERAGE RATE OF TWO FEET PER YEAR BASED ON ANNUAL WATER LEVEL DATA COLLECTED DURING THE FIVE YEARS BEFORE THE DATE THE APPLICATION WAS FILED.

(b) THAT THE PROJECTED WITHDRAWALS FROM ALL OF THE PROPOSED WELLS TO BE LOCATED WITHIN TWO MILES OF THE EXTERIOR BOUNDARIES OF THE RESERVATION OVER THE INITIAL FIVE-YEAR PERIOD OF WITHDRAWALS WILL NOT CAUSE A WATER LEVEL DECLINE OF TEN FEET OR MORE AT ANY POINT ON THE EXTERIOR BOUNDARIES OF THE RESERVATION.

2. A HYDROLOGIC STUDY DEMONSTRATING TO THE DIRECTOR'S SATISFACTION THAT THE PROJECTED WITHDRAWALS FROM ALL OF THE PROPOSED WELLS TO BE LOCATED WITHIN TWO MILES OF THE EXTERIOR BOUNDARIES OF THE RESERVATION OVER THE INITIAL FIVE-YEAR PERIOD OF WITHDRAWALS WILL NOT CAUSE A WATER LEVEL DECLINE OF FIVE FEET OR MORE AT ANY POINT ON THE EXTERIOR BOUNDARIES OF THE RESERVATION.

3. THE NATION'S WRITTEN CONSENT TO THE DRILLING OF THE WELL.

1 C. IN DETERMINING THE WATER LEVEL DECLINES CAUSED BY A PROPOSED WELL  
2 UNDER SUBSECTION B, PARAGRAPH 1 OR 2 OF THIS SECTION, OR IN DETERMINING THE  
3 AVERAGE ANNUAL WATER LEVEL CHANGE AT A PROPOSED WELL SITE UNDER SUBSECTION B,  
4 PARAGRAPH 1 OF THIS SECTION, THE FOLLOWING SHALL NOT BE CONSIDERED:

5 1. THE EFFECTS ON WATER LEVELS OF PUMPING FROM WELLS WITHIN THE  
6 RESERVATION.

7 2. THE EFFECTS ON WATER LEVELS OF UNDERGROUND STORAGE FACILITIES  
8 LOCATED WITHIN TWO MILES OF THE EXTERIOR BOUNDARIES OF THE RESERVATION AND  
9 RECOVERY WELLS LOCATED WITHIN TWO MILES OF THE EXTERIOR BOUNDARIES OF THE  
10 RESERVATION, EXCEPT THAT IN DETERMINING THE AVERAGE ANNUAL WATER LEVEL CHANGE  
11 AT A PROPOSED WELL SITE UNDER SUBSECTION B, PARAGRAPH 1 OF THIS SECTION, THE  
12 STORAGE OF WATER AT AN UNDERGROUND STORAGE FACILITY LOCATED WITHIN TWO MILES  
13 OF THE EXTERIOR BOUNDARIES OF THE RESERVATION SHALL BE CONSIDERED IF THE  
14 WATER IS STORED BY THE APPLICANT OR BY ANOTHER PERSON ON BEHALF OF THE  
15 APPLICANT.

16 D. FOR PURPOSES OF SUBSECTION B OF THIS SECTION, IF AN APPLICANT  
17 SUBMITS TWO OR MORE APPLICATIONS TO DRILL A NEW NONEXEMPT WELL WITHIN AN  
18 EIGHTEEN-MONTH PERIOD, THE APPLICATIONS SHALL BE CONSIDERED ONE APPLICATION.

19 E. THIS SECTION DOES NOT APPLY TO AN APPLICATION TO DRILL A RECOVERY  
20 WELL UNDER SECTION 45-834.01 IF THE RECOVERY WELL WILL BE LOCATED WITHIN TWO  
21 MILES OF THE EXTERIOR BOUNDARIES OF THE RESERVATION AND WILL BE PERMITTED TO  
22 RECOVER ONLY WATER STORED AT AN UNDERGROUND STORAGE FACILITY LOCATED WITHIN  
23 ONE MILE OF THE RECOVERY WELL.

24 F. THE DIRECTOR SHALL NOT ISSUE A PERMIT UNDER SECTION 45-513, 45-514,  
25 45-516, 45-517, 45-518, 45-519 OR 45-519.01 IF THE APPLICANT FOR THE PERMIT  
26 PROPOSES TO WITHDRAW GROUNDWATER FROM A NEW WELL OR WELLS AND THE DIRECTOR IS  
27 REQUIRED TO DENY THE APPLICATION UNDER THIS SECTION.

28 G. AN APPLICATION FOR A PERMIT TO WITHDRAW GROUNDWATER PURSUANT TO  
29 CHAPTER 2, ARTICLE 7 OF THIS TITLE SHALL INCLUDE A HYDROLOGIC STUDY DESCRIBED  
30 IN SUBSECTION B, PARAGRAPH 1 OR 2 OF THIS SECTION OR THE CONSENT DESCRIBED IN  
31 SUBSECTION B, PARAGRAPH 3 OF THIS SECTION IF THE APPLICANT PROPOSES TO  
32 WITHDRAW GROUNDWATER FROM A NEW WELL OR WELLS WITHIN TWO MILES OF THE  
33 EXTERIOR BOUNDARIES OF THE RESERVATION AND THE COMBINED MAXIMUM PUMPING  
34 CAPACITY OF THOSE WELLS IS FIVE HUNDRED GALLONS PER MINUTE OR MORE. THIS  
35 SUBSECTION DOES NOT APPLY TO AN APPLICATION FOR A GENERAL INDUSTRIAL USE  
36 PERMIT UNDER SECTION 45-515.

37 H. A NOTICE OF INTENTION TO DRILL UNDER SECTION 45-596 SHALL INCLUDE A  
38 HYDROLOGIC STUDY DESCRIBED IN SUBSECTION B, PARAGRAPH 1 OR 2 OF THIS SECTION  
39 OR THE CONSENT DESCRIBED IN SUBSECTION B, PARAGRAPH 3 OF THIS SECTION IF THE  
40 PROPOSED WELL OR WELLS ARE NONEXEMPT WELLS TO BE LOCATED WITHIN TWO MILES OF  
41 THE EXTERIOR BOUNDARIES OF THE RESERVATION AND THE COMBINED MAXIMUM PUMPING  
42 CAPACITY OF THOSE WELLS IS FIVE HUNDRED GALLONS PER MINUTE OR MORE.  
43 NOTWITHSTANDING SECTION 45-596, SUBSECTION D, THE DIRECTOR SHALL NOT  
44 AUTHORIZE THE DRILLING OF A WELL UNDER SECTION 45-596 IF THE DIRECTOR IS  
45 REQUIRED TO DENY THE NOTICE OF INTENTION TO DRILL UNDER THIS SECTION.

1 I. AN APPLICATION FOR A PERMIT TO CONSTRUCT A NEW WELL OR REPLACEMENT  
2 WELL IN A NEW LOCATION UNDER SECTION 45-599 SHALL INCLUDE A HYDROLOGIC STUDY  
3 DESCRIBED IN SUBSECTION B, PARAGRAPH 1 OR 2 OF THIS SECTION OR THE CONSENT  
4 DESCRIBED IN SUBSECTION B, PARAGRAPH 3 OF THIS SECTION IF THE PROPOSED WELL  
5 OR WELLS ARE WITHIN TWO MILES OF THE EXTERIOR BOUNDARIES OF THE RESERVATION  
6 AND THE COMBINED MAXIMUM PUMPING CAPACITY OF THOSE WELLS IS FIVE HUNDRED  
7 GALLONS PER MINUTE OR MORE. NOTWITHSTANDING SECTION 45-599, SUBSECTION C,  
8 THE DIRECTOR SHALL DENY AN APPLICATION FOR A PERMIT FOR A NEW WELL OR A  
9 REPLACEMENT WELL IN A NEW LOCATION UNDER SECTION 45-599 IF THE DIRECTOR IS  
10 REQUIRED TO DENY THE APPLICATION UNDER THIS SECTION.

11 J. AN APPLICATION FOR A RECOVERY WELL PERMIT UNDER SECTION 45-834.01  
12 SHALL INCLUDE A HYDROLOGIC STUDY DESCRIBED IN SUBSECTION B, PARAGRAPH 1 OR 2  
13 OF THIS SECTION OR THE CONSENT DESCRIBED IN SUBSECTION B, PARAGRAPH 3 OF THIS  
14 SECTION IF THE PROPOSED RECOVERY WELL OR WELLS ARE WITHIN TWO MILES OF THE  
15 EXTERIOR BOUNDARIES OF THE RESERVATION AND THE COMBINED MAXIMUM PUMPING  
16 CAPACITY OF THOSE WELLS IS FIVE HUNDRED GALLONS PER MINUTE OR MORE.  
17 NOTWITHSTANDING SECTION 45-834.01, SUBSECTION B, THE DIRECTOR SHALL DENY AN  
18 APPLICATION FOR A RECOVERY WELL UNDER SECTION 45-834.01 IF THE DIRECTOR IS  
19 REQUIRED TO DENY THE APPLICATION UNDER THIS SECTION.

20 45-2712. Notice of well applications to nation; objection;  
21 hearing; appeal

22 A. BEFORE MAKING A DECISION ON AN APPLICATION DESCRIBED IN SECTION  
23 45-2711, SUBSECTION B, THE DIRECTOR SHALL MAIL WRITTEN NOTICE OF THE  
24 APPLICATION TO THE NATION, INCLUDING A COPY OF THE APPLICATION, AND PROVIDE  
25 THE NATION AN OPPORTUNITY TO OBJECT TO THE APPLICATION IN THE MANNER PROVIDED  
26 IN SUBSECTION B OF THIS SECTION.

27 B. THE NATION MAY FILE WITH THE DIRECTOR A WRITTEN OBJECTION TO AN  
28 APPLICATION DESCRIBED IN SECTION 45-2711, SUBSECTION B WITHIN SIXTY DAYS  
29 AFTER THE DIRECTOR MAILES WRITTEN NOTICE OF THE APPLICATION TO THE NATION.  
30 THE GROUNDS FOR OBJECTION ARE LIMITED TO WHETHER THE APPLICATION SHOULD BE  
31 DENIED UNDER SECTION 45-2711, SUBSECTION B.

32 C. IF THE NATION FILES A TIMELY OBJECTION TO AN APPLICATION PURSUANT  
33 TO SUBSECTION B OF THIS SECTION, THE DIRECTOR SHALL SCHEDULE AN  
34 ADMINISTRATIVE HEARING ON THE OBJECTION WITHIN SIXTY DAYS AFTER RECEIVING THE  
35 OBJECTION. THE ADMINISTRATIVE HEARING SHALL BE HELD BY AN ADMINISTRATIVE LAW  
36 JUDGE OF THE OFFICE OF ADMINISTRATIVE HEARINGS UNDER TITLE 41, CHAPTER 6,  
37 ARTICLE 10 AND THE NATION SHALL BE A PARTY TO THE HEARING. NOTWITHSTANDING  
38 ANY OTHER LAW, THE ADMINISTRATIVE LAW JUDGE SHALL ISSUE A RECOMMENDED  
39 DECISION TO THE DIRECTOR WITHIN THIRTY DAYS AFTER THE CLOSE OF THE HEARING  
40 AND THE DIRECTOR SHALL ISSUE A FINAL ADMINISTRATIVE DECISION WITHIN THIRTY  
41 DAYS AFTER RECEIVING THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION.  
42 THE DIRECTOR'S FINAL ADMINISTRATIVE DECISION IS SUBJECT TO JUDICIAL REVIEW BY  
43 THE SUPERIOR COURT HAVING JURISDICTION OVER THE GENERAL ADJUDICATION OF ALL  
44 RIGHTS TO USE WATER IN THE GILA RIVER SYSTEM AND SOURCE IF A PARTY TO THE  
45 ADMINISTRATIVE HEARING FILES AN ACTION FOR JUDICIAL REVIEW WITHIN THIRTY DAYS

1 AFTER THE DATE THE DIRECTOR MAILES NOTICE OF THE FINAL ADMINISTRATIVE DECISION  
2 TO THE PARTY.

3 D. IF THE DIRECTOR RECEIVES AN APPLICATION TO DRILL A REPLACEMENT WELL  
4 IN THE TUCSON ACTIVE MANAGEMENT AREA AT A LOCATION WITHIN TWO MILES OF THE  
5 EXTERIOR BOUNDARIES OF THE RESERVATION, BEFORE MAKING A DECISION ON THE  
6 APPLICATION, THE DIRECTOR SHALL MAIL WRITTEN NOTICE OF THE APPLICATION TO THE  
7 NATION, INCLUDING A COPY OF THE APPLICATION, AND PROVIDE THE NATION AN  
8 OPPORTUNITY TO OBJECT TO THE APPLICATION IN THE MANNER PROVIDED IN SUBSECTION  
9 E OF THIS SECTION.

10 E. THE NATION MAY FILE WITH THE DIRECTOR A WRITTEN OBJECTION TO AN  
11 APPLICATION DESCRIBED IN SUBSECTION D OF THIS SECTION. THE WRITTEN OBJECTION  
12 SHALL BE FILED WITHIN SIXTY DAYS AFTER THE DIRECTOR MAILES WRITTEN NOTICE OF  
13 THE APPLICATION TO THE NATION. THE GROUNDS FOR OBJECTION ARE LIMITED TO  
14 WHETHER THE PROPOSED WELL QUALIFIES AS A REPLACEMENT WELL. IF THE NATION  
15 FILES A TIMELY OBJECTION TO THE APPLICATION, THE HEARING AND APPEAL  
16 PROVISIONS SET FORTH IN SUBSECTION C OF THIS SECTION APPLY.

17 F. IF THE DIRECTOR FAILS TO COMPLY WITH A REQUIREMENT IN THIS SECTION,  
18 THE NATION MAY BRING AN ACTION IN THE SUPERIOR COURT HAVING JURISDICTION OVER  
19 THE GENERAL ADJUDICATION OF ALL RIGHTS TO USE WATER IN THE GILA RIVER SYSTEM  
20 AND SOURCE TO OBTAIN AN ORDER COMPELLING THE DIRECTOR'S COMPLIANCE.

21 Sec. 11. Water firming program for Arizona Indian tribes

22 A. The director of the department of water resources shall develop a  
23 water firming program for the purpose of ensuring that, after the United  
24 States secretary of interior publishes in the federal register the statements  
25 of findings described in sections 207(c) and 302(c) of the Arizona water  
26 settlements act (P.L. 108-541), the following amounts of the non-Indian  
27 agricultural priority central Arizona project water reallocated to Arizona  
28 Indian tribes under section 104(a)(1) of the Arizona water settlements act  
29 (P.L. 108-451), for a period of one hundred years, shall be delivered during  
30 water shortages in the same manner as central Arizona project water with a  
31 municipal and industrial delivery priority is delivered during water  
32 shortages:

33 1. Fifteen thousand acre-feet of the non-Indian agricultural priority  
34 central Arizona project water reallocated to the Gila River Indian community  
35 under section 104(a)(1)(A)(i) of the Arizona water settlements act  
36 (P.L. 108-451).

37 2. Eight thousand seven hundred twenty-four acre-feet of the  
38 non-Indian agricultural priority central Arizona project water reallocated to  
39 Arizona Indian tribes under section 104(a)(1)(A)(iii) of the Arizona water  
40 settlements act (P.L. 108-451).

41 B. The director of the department of water resources shall assist the  
42 United States secretary of interior in carrying out the secretary's  
43 obligations to firm twenty-eight thousand two hundred acre-feet of non-Indian  
44 agricultural priority central Arizona project water reallocated to the  
45 Tohono O'odham nation under section 104(a)(1)(A)(ii) of the Arizona water

1 settlements act (P.L. 108-451) in accordance with section 306 of the southern  
2 Arizona water rights settlement amendments act, as added by section 301 of  
3 the Arizona water settlements act (P.L. 108-451).

4 Sec. 12. Arizona water firming program study commission

5 A. The Arizona water firming program study commission is established.  
6 The purpose of the commission is to:

7 1. Study the options for a water firming program that would satisfy  
8 the requirements of section 105(b)(2) of the Arizona water settlements act  
9 (P.L. 108-451).

10 2. Identify appropriate mechanisms for the firming of water under the  
11 water firming program, including storage and recovery with specification of  
12 authorized entities to recover the water and determination of the financial  
13 structure for the recovery, as well as forbearance, and other alternative  
14 mechanisms.

15 3. Study the existing powers and duties of the Arizona water banking  
16 authority and the general statutory authorities necessary to implement the  
17 firming program and to make recommendations regarding appropriate statutory  
18 and regulatory provisions that are necessary to fully implement the water  
19 firming program.

20 B. The commission consists of members who are appointed by the  
21 director of the department of water resources and who represent at least the  
22 following entities:

23 1. Municipal and industrial priority central Arizona project water  
24 users.

25 2. Agricultural improvement districts established pursuant to title  
26 48, chapter 17, Arizona Revised Statutes.

27 3. Non-Indian agricultural priority central Arizona project water  
28 users.

29 4. The Gila River Indian community.

30 5. The Tohono O'odham nation.

31 6. A multi-county water conservation district established under title  
32 48, chapter 22, Arizona Revised Statutes.

33 7. The Arizona water banking authority established under title 45,  
34 chapter 14, Arizona Revised Statutes.

35 8. Hardrock mining industries.

36 C. The director of the department of water resources shall serve as  
37 chairperson of the commission. All members appointed by the director shall  
38 be knowledgeable in water resource management in this state. The president  
39 of the senate and the speaker of the house of representatives, or their  
40 designees, shall serve as nonvoting ex officio members of the commission.

41 D. The department of water resources shall provide staff support for  
42 the commission.

43 E. The commission shall submit to the legislature an interim report of  
44 its activities on or before November 1, 2005 and shall report its final  
45 findings and recommendations to the legislature on or before January 6, 2006.

1 The commission shall provide copies of each report to the secretary of state  
2 and the director of the Arizona state library, archives and public records.

3 Sec. 13. Delayed repeal

4 Section 12 of this act, establishing the Arizona water firming program  
5 study commission, is repealed on June 1, 2006.

6 Sec. 14. State and tribal cooperation for acquisition of  
7 certain land

8 A. This state recognizes the interest of the Gila River Indian  
9 community to acquire and to place into trust status a parcel of land located  
10 within the exterior boundaries of the community's reservation. This state,  
11 through any of its authorized agencies, in cooperation with the community and  
12 on application of the community shall take actions in accordance with Arizona  
13 law for the acquisition of the property designated as section 36, township 4  
14 south, range 4 east, Gila and Salt river base and meridian, to include the  
15 maximum right, title and interest in that property, including mineral rights  
16 as permitted by Arizona law.

17 B. For purposes of a finding by the secretary of interior or for any  
18 other legal requirement, the state and the community agree that this section  
19 combined with the enactment of the firming program authorized by this act  
20 fully satisfies section 207(c)(1)(E) of the Arizona water settlements act  
21 (P.L. 108-451).

22 Sec. 15. Conditional enactment; written notice

23 A. Sections 45-611, 45-2423, 45-2425 and 45-2457, Arizona Revised  
24 Statutes, as amended by this act, sections 45-2602 and 45-2604, Arizona  
25 Revised Statutes, as added by this act, title 45, chapter 15, articles 2, 3  
26 and 6, Arizona Revised Statutes, as added by this act, and title 45, chapter  
27 16, Arizona Revised Statutes, as added by this act, are effective only if on  
28 or before December 31, 2010 the United States secretary of interior publishes  
29 in the federal register the statements of findings described in sections  
30 207(c)(1) and 302(c) of the Arizona water settlements act (P.L. 108-451).

31 B. The director of the department of water resources shall promptly  
32 provide written notice to the executive director of the Arizona legislative  
33 council of the date of publication of the findings or if the condition  
34 prescribed in subsection A of this section is not met. The date of  
35 publication is the effective date of the conditional enactment.

36 Sec. 16. Conditional delayed repeal; conditional enactment

37 A. Title 45, chapter 15, Arizona Revised Statutes, as added by this  
38 act, and section 11 of this act, relating to the establishment of the water  
39 firming program for Arizona Indian tribes, are repealed if the condition  
40 prescribed in section 15 of this act is not met.

41 B. Section 45-841.01, Arizona Revised Statutes, as amended by section  
42 3 of this act, is effective only if the condition prescribed in section 15 of  
43 this act is not met.

**APPROVED BY THE GOVERNOR APRIL 18, 2005.**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2005.**

Passed the House February 28, 2005

Passed the Senate April 6, 2005

by the following vote: 59 Ayes,

by the following vote: 27 Ayes,

0 Nays, 1 Not Voting

1 Nays, 2 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
\_\_\_\_\_  
Governor of Arizona

H.B. 2728

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

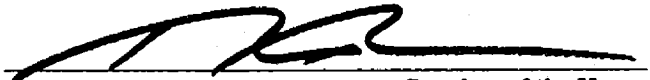
\_\_\_\_\_  
Secretary of State

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

April 12, 20 05,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

  
Speaker of the House  
*Pro Tempore*  
Norman L. Moore  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

13<sup>th</sup> day of April, 20 05

at 12:00 o'clock P. M.

Wendy Ibarra  
Secretary to the Governor

Approved this 18 day of

April, 20 05,

at 1:50 o'clock P. M.

Jan. Nagel  
Governor of Arizona

H.B. 2728

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18 day of April, 20 05,

at 4:42 o'clock P. M.

Janice K. Brewer  
Secretary of State